ARTICLE 1.

GENERAL PROVISIONS

TABLE OF CONTENTS

ARTICLE 1
GENERAL PROVISIONS

		Page
SEC. 1.1	GENERAL	1
	A. Title and citation.	1
	B. Authority	1
	C. Findings.	1
	D. Purpose and intent	2
	1. Implementation of Comprehensive Plan	2
	2. Comprehensive and consistent regulations.	2
	3. Efficient and effective regulations.	2
SEC. 1.2	RELATIONSHIP TO COMPREHENSIVE PLAN.	3
SEC. 1.3	APPLICABILITY.	3
SEC. 1.4	MINIMUM REQUIREMENTS.	3
SEC. 1.5	EXEMPTIONS: EFFECT OF CODE AND AMENDMENTS ON PREVIOUSLY APPROVED DEVELOPMENT ORDERS.	3
	A. General.	3
	B. Subsequent Development Orders and Applications in Process.	3
	1. General.	3
	2. No final development order.	3
	3. Applications filed prior to the effective date of this Code.	4
	4. Subsequent development orders and modifications to previously approved development orders and permits.	5
	5. Board of County Commission (BCC) Conditions.	5
	6. Uses no longer regulated as Special Exceptions.	5
	C. Existing uses.	6
	D. Invalid approvals.	6
SEC. 1.6	GENERAL	6
	A. Purpose and intent.	6
	B. General.	6

SEC. 1.7 NONCONFORMING USES. 7
A. Major Nonconforming Use. 7
1. Normal maintenance or repair. 7
2. Enlargement or expansion. 7
3. Relocation. 7
4. Change in use. 7
5. Discontinuance or abandonment. 7
B. Minor Nonconforming Use. 7
1. Normal maintenance or repair. 7
2. Enlargement or expansion. 8
3. Relocation. 8
4. Change in use. 8
5. Discontinuance or abandonment. 8

SEC. 1.8 NONCONFORMING STRUCTURES. 11
A. Normal maintenance. 11
B. Enlargement or expansion. 11
C. Relocation. 11
D. Damage and restoration of nonconforming structure. 11
E. Unsafe structure. 12

SEC. 1.9 NONCONFORMING LOTS. 12
A. Residential development. 12
1. Development permissible prior to creation of nonconformity. 12
2. Record of creation. 12
3. Property development regulations. 13
B. Non-residential development 13
1. Development permissible prior to creation of nonconformity. 13
2. Record of creation. 13
3. Property development regulations. 13
C. Zoning district amendment on lots of record. 13

SEC. 1.10 PROPERTIES AFFECTED BY EMINENT DOMAIN PROCEEDINGS. 14
A. Applicability. 14
B. Properties Affected by Eminent Domain Action. 14
1. General. 14
2. Enlargement or change in use. 14
3. Redesign of Sites. 15
4. Damage or restoration of structures. 15
5. Signs. 15
6. Vacant lots. 16
7. Lot combination. 16

C. Certificates of Conformity. 17

SEC. 1.11 CREATION OF POTENTIALLY BUILDABLE RESIDENTIAL SINGLE FAMILY LOTS. 17
A. Applicability. 17
B. Determination Criteria. 17
1. Legal Recordation of lot. 17
2. Density criteria. 17
3. Zoning requirements. 17
4. Legal Access. 17
C. Determination of compliance. 17
D. Recordation of a potentially buildable lot. 18
E. Issuance of a building permit. 18

ARTICLE 1

GENERAL PROVISIONS

SEC. 1.1 GENERAL.

A. Title and citation. This Code shall be known as the "Unified Land Development Code" and may also be cited and referred to herein as this "Code" or the "ULDC."
[Ord. No. 94-9]

B. Authority. The Board of County Commissioners of Palm Beach County has the authority to adopt this Code pursuant to Article VIII, Sec. 1(f), Fla. Const., the Palm Beach County Charter, Sec. 125.01, et seq., Fla. Stat., Sec. 163.3161, et. seq., Fla. Stat., Rule 9J-5, Florida Administrative Code (F.A.C.), Rule 9J-24, F.A.C., and such other authorities and provisions that are established in the statutory or common law in the State of Florida.

C. Findings. The Board of County Commissioners of Palm Beach County, Florida, hereby makes the following findings:

1. Palm Beach County, pursuant to Sec. 163.3161, et. seq., Fla. Stat., the Florida Local Government Comprehensive Planning and Land Development Regulation Act (hereinafter the "Act"), is required to prepare and adopt a Comprehensive Plan.

2. After adoption of the Comprehensive Plan, the Act, and in particular Sec. 163.3202(1), Fla. Stat., mandates that Palm Beach County implement the adopted Comprehensive Plan with land development regulations that are consistent with the adopted Comprehensive Plan.

3. Sec. 163.3194(1)(b), Fla. Stat., requires that all land development regulations enacted or amended by Palm Beach County shall be consistent with the adopted Comprehensive Plan, and any land development regulations existing at the time of adoption which are not consistent with the adopted Comprehensive Plan, shall be amended so as to be consistent.

4. Sec. 163.3194(1)(a), Fla. Stat., mandates that after a Comprehensive Plan has been adopted in conformity with the Act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by the Comprehensive Plan shall be consistent with the Comprehensive Plan.

5. Pursuant to Sec. 163.3194(3)(a), Fla. Stat., a development order or land development regulations shall be consistent with the Comprehensive Plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the Comprehensive Plan and if it meets all other criteria enumerated by the local government.

6. Sec. 163.3194(3)(b), Fla. Stat., states that a development approved or undertaken by a local government shall be consistent with the Comprehensive Plan if the land uses, densities or intensities, capacity or size, timing, and other aspects of development are compatible with and further the objectives, policies, land uses, densities or intensities in the Comprehensive Plan and if it meets all other criteria enumerated by the local government.

7. On August 31, 1989, Palm Beach County adopted the Palm Beach County Comprehensive Plan (hereinafter the "Comprehensive Plan") as its Comprehensive Plan pursuant to the requirements of Sec. 163.3161 et. seq., Fla. Stat., and Rule 9J-5, F.A.C.

8. This Code is adopted to implement the Comprehensive Plan. It is consistent with the Comprehensive Plan, in part, because the land uses, densities, or intensities, capacity or size, timing, and other aspects of development permitted, further the objectives, policies, land uses, and densities and intensities in the Comprehensive Plan, and meet all other criteria enumerated in the Comprehensive Plan.

9. This Code is also adopted to preserve and enhance the present advantages that exist in Palm Beach County; encourage the most appropriate use of land, water, and natural resources, consistent with the public interest; overcome present handicaps, and deal effectively with future problems that may result from the use and development of land; prevent the overcrowding of land and avoid undue concentration of population; facilitate the adequate and efficient provision of transportation, water, sewage, drainage, solid waste, parks, schools, fire and police facilities; conserve, develop, utilize, and protect natural resources; protect human, environmental, social, and economic resources; and maintain, through orderly growth and development, the community character and stability of present and future land uses and development in Palm Beach County.

D. Purpose and intent.

1. **Implementation of Comprehensive Plan.** It is the purpose of the Board of County Commissioners of Palm Beach County that this Code implement and ensure that all development orders approved in the unincorporated County are consistent with the Comprehensive Plan.

2. **Comprehensive and consistent regulations.** It is also the purpose of the Board of County Commissioners of Palm Beach County that this Code establish comprehensive and consistent standards and procedures for the review and approval of all proposed development of land in unincorporated Palm Beach County.

3. **Efficient and effective regulations.** It is the further purpose of the Board of County Commissioners of Palm Beach County that the development review, approval, and permitting process under this Code be efficient, in terms of time and expense, effective, in terms of addressing the natural resource and public facility implications of proposed development, and equitable, in terms of consistency with established regulations and procedures, respect for the rights of property owners, and consideration of the interests of the citizens of Palm Beach County.

[Ord. No. 94-9]

SEC. 1.2 RELATIONSHIP TO COMPREHENSIVE PLAN.

The adoption of this Code is consistent with, compatible with and furthers the goals, objectives, policies, land uses, and densities or intensities in the Comprehensive Plan.

SEC. 1.3 APPLICABILITY.

The provisions of this Code shall apply to the development of all land in the total unincorporated area of Palm Beach County, except as expressly and specifically provided otherwise in this Code. No development shall be undertaken without prior authorization pursuant to this Code.

SEC. 1.4 MINIMUM REQUIREMENTS.

The provisions of this Code are the minimum requirements necessary to accomplish the purposes of this Code and implement and ensure consistency with the Comprehensive Plan.

SEC. 1.5 EXEMPTIONS: EFFECT OF CODE AND AMENDMENTS ON PREVIOUSLY APPROVED DEVELOPMENT ORDERS.

A. **General.** As provided in this Section, the provisions of this Code and any amendments hereto shall not affect the validity of any lawfully approved development order approved prior to the effective date of this Code if the development order remains valid. Specifically, uses, site design elements and tabular data shown on a valid building permit, a certified master plan or site plan, or an approved subdivision plan or land development permit will not be subject to ULDC provisions for any information clearly shown.

B. **Subsequent Development Orders and Applications in Process.**

1. **General.** The section establishes a procedure which honors previously approved development orders and the associated site elements and requires that subsequent development orders comply with this Code. This section recognizes that conflicts may arise when a development previously approved has not obtained a final development order. In cases of such conflict, the Zoning Director and the County Engineer shall advise an applicant to what extent this Code shall be applied. The Zoning Director and the County Engineer shall apply the standards of this Code to the greatest extent physically possible given the constraints of the site, the constraints of the existing valid plats of record, the provisions of this section, and the need to mitigate impacts to assure compatibility.

2. **No final development order.** Projects with a valid development order which are required to have but do not have either: (1) a certified master plan or site plan, or (2) an approved subdivision plan or land development permit, may apply for certification or approval of the subsequent development permit as provided herein. Uses or site design elements not specifically shown on an approved plan shall be required to comply with this Code, or any amendments hereto, for the purposes of obtaining a subsequent development order, unless otherwise provided in Section 1.5.B.2.b), below.

a. Any application for certification or approval of a master plan, site plan, subdivision plan or land development permit may be accepted, reviewed and approved under the standards of Ordinances 73-2 and 73-4, as amended, provided:

(1) the application is approved or certified prior to September 30, 1992;
(2) provided the application is in compliance with Ordinances 73-2 and 73-4, as amended;
(3) the development order is valid; and
(4) the landscaping is improved to comply with the standards of this Code, as follows:

(a) Projects with a development order issued prior to April 8, 1986 shall be required to comply with the Landscape Code in Article 7 of the ULDC; except that residential projects over eighty (80) percent built-out shall be exempt from this requirement.
(b) Projects with a development order approved on or after April 8, 1986 shall be required to comply with perimeter Landscape Standards in Article 7 of the ULDC; except that residential projects over eighty (80) percent built-out shall be exempt from this requirement.

b. Issuance of subsequent development orders shall be based on the requirements of this Code, except where a requirement of this Code and physical constraints of a site render a previously approved site element not fully usable. In such cases, the requirements of this Code may be modified to allow a subsequent development order to be approved consistent with the density or intensity, or other site element shown on a previously approved plan. Through the DRC, the specific property development regulation (Article 6) or site development requirement (Article 7, except sections 7.5, and 7.6, and Article 17) causing conflict may be modified, and a subsequent development order may be issued, using the following procedure:

(1) The development shall use flexible regulations, described in Sec. 6.8 of this Code. If still unable to use a previously approved site element then,
(2) The applicant may elect to demonstrate with clear and convincing evidence that a subsequent development order implementing the previously approved site element could have been approved pursuant to Ordinance 73-2, as amended to June 22, 1992. For residential development, housing classifications may not change to accommodate density.

3. **Applications filed prior to the effective date of this Code.** An application for a special exception, special permit, district boundary change (rezoning), site plan review committee approval, subdivision plan or land development permit, or a building permit which is filed with and accepted by the department prior to the effective date of this Code may be reviewed and processed under the terms of Ordinances No. 73-2 and 73-4, as amended. In addition, all relevant applications shall be certified by prehearing conference on or before the effective date of this Code and receive site plan or subdivision certification on or before September 30, 1992, in order to continue to be reviewed and processed under the terms of Ordinances No. 73-2 and 73-4, as amended. However, these applications must also comply with Sec. 1.5.B.2.a.(4).(b) herein. After approval, the application shall be considered a project with a valid development order for the purposes of modification and applicability of the general requirements of the this Code, or any amendments hereto. Applications submitted after September 30, 1992 shall be reviewed under the standards of this Code.

4. **Subsequent development orders and modifications to previously approved development orders and permits.** The provisions of the ULDC shall apply to any request to modify any development order or permit. However, only the area directly effected by the proposed modification shall be subject to the ULDC, except that non-residential projects shall provide additional landscape improvements provided no required parking or intensity is lost. A Landscape Betterment Plan may be submitted to ensure no required parking or intensity is lost.

   a. **Non-residential projects which have not commenced development.** Non-residential projects which have not commenced development shall be required to comply with the Landscape Code in Article 7 of the ULDC for the entire site.

   b. **Previous commencement of development.** Non-residential projects which have commenced development on site shall install additional landscaping as follows:

      (1) **Newly developed freestanding building part of a larger project.** Freestanding buildings with vehicular circulation on four (4) sides shall provide additional landscaping for the unmodified portion of the project at least equal to one hundred percent (100%) of the cost of the landscaping to be installed at the new development, or

      (2) **Renovation or additions.** Structural additions or renovation to previously approved uses shall comply with the landscaping requirements of this code when the value of the addition or renovation exceeds thirty five percent (35%) of the appraised value of the parcel on which renovations shall occur.

   c. **All requests for modifications to a previously approved development order.** All requests for modifications to previously approved development orders shall provide assurance that existing landscaping complies with the original development order and Code requirements.

   d. **Additions or renovations to vehicular use areas.** Renovations or additions to vehicular use areas shall be governed by Section 7.2.B.12.b.(8) of the Off-street Parking and Loading requirements.

5. **Board of County Commission (BCC) Conditions.** BCC conditions shall govern project development and site design in the event they exceed this Code.

6. **Uses no longer regulated as Special Exceptions.** All uses approved under Ordinance 3-57 or Ordinance 72-3 shall be required to develop pursuant to the terms of their development order except as provided in this section. Uses approved as conditional uses under Ordinance 3-57, as amended, or as special exceptions under Ordinance 73-2, as amended, and which are only subject to Development Review Committee (DRC) use approval shall modify the conditional use or special exception use prior to the issuance of a subsequent development permit by the DRC. All Board imposed conditions shall be carried forward and remain applicable to the subject property, except those that are substandard to this Code. Future modifications to the approved plans shall be made consistent with the procedures and requirements of the Unified Land Development Code.

[Ord. No. 92-27] [Ord. No. 93-4]

C. **Existing uses.** All uses existing on the effective date of this Code or any amendment hereto, that preexisted or were permitted pursuant to either Ordinance 3-57, as amended, or Ordinance 73-2, as amended, and have continued pursuant to the standards for nonconforming uses, and which are not permitted in this Code shall be considered nonconforming under the terms of this Code. Uses not legally permitted by this Code or either Ordinance 3-57, as amended, or Ordinance 73-2, as amended, or which did not preexist Ordinance 73-2, shall be considered illegal.

[Ord. No. 93-4]

D. **Invalid approvals.** Development orders and permits that are invalid shall be subject to all applicable provisions of this Code. Invalid development orders and permits are projects which have been revoked, have expired or have been found by any Board empowered to enforce this Code to be not in compliance with any conditions of development approval or time certain requirement pursuant to Section 5.8 of this Code, or any amendments hereto.

[Ord. No. 92-27; September 22, 1992] [Ord. No. 93-4; February 2, 1993]

NONCONFORMITIES

SEC. 1.6 GENERAL

A. **Purpose and intent.** Within the provisions established by this Code, there exist uses of land, structures and lots that were lawfully established before this Code was adopted or amended, that now do not conform to the terms and requirements of this Code. The purpose and intent of this section is to regulate and limit the continued existence of those uses, structures and lots that do not conform to the provisions of this Code or any amendments thereto, and where possible bring the use into conformance with this Code.

B. **General.** It is the intent of this section to permit these nonconformities to continue, but not to allow nonconformities to be enlarged or expanded, except under the limited circumstances established in this article. The provisions of this article are designed to curtail substantial investment in nonconformities to preserve the integrity of this Code and the Comprehensive Plan. In determining whether a use is nonconforming and will be protected by the provisions of this article, the following shall apply:

1. Nonconforming use status shall not be provided for any use which was illegally commenced, is unlawfully continued, or commenced after the use restrictions became applicable.

2. Nonconforming use status shall only be provided where a use is actually commenced not merely contemplated. Further, the use must be continuous during business hours and not an occasional or irregular use of the property.

3. An accessory nonconforming use shall not become the principal use.

4. Documents shall be provided by the property owner to establish that a use lawfully existed prior to the adoption of applicable use regulation. Affidavits alone are not sufficient evidence to establish nonconforming status.

[Ord. No. 93-4]

SEC. 1.7 NONCONFORMING USES. There are two (2) classes of nonconforming uses: major and minor. Table 1.7-1 shall govern whether a nonconforming uses is major or minor, except that any use in a location nonconforming to the Comprehensive Plan Future Land Use Element shall be deemed a major nonconforming use. A nonconforming use is designated as major when it is established in a zoning district where the use is prohibited and the location is so significantly inappropriate that its location creates or threatens to create incompatibilities potentially injurious to the public welfare. Therefore, strict limits are set forth in this section for the expansion and continuation of major nonconforming uses. A minor nonconforming use is prohibited in the district in which it is located, or is inconsistent with the physical or permit requirements of this Code. Minor nonconforming uses do not create or threaten to create incompatibilities injurious to the public welfare. Therefore, provisions which allow limited expansion of minor nonconforming uses are established. A nonconforming use shall either be a major nonconforming use or minor nonconforming use as identified in Table 1.7-1. **[Ord. No. 93-4]**

A. Major Nonconforming Use.

1. **Normal maintenance or repair.** Normal maintenance or repair of structures where major nonconforming uses are located may be performed in any period of twelve (12) consecutive months, as well as repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding twenty (20) percent of the current assessed value of the structure.

2. **Enlargement or expansion.** A major nonconforming use shall not be enlarged or expanded in area occupied, except a major nonconforming use may be enlarged in any area of a structure that was manifestly designed and approved for such use, prior to the date the use became a nonconformity.

3. **Relocation.** A structure containing a major nonconforming use shall not be moved in whole, or in part, to another location on or off the parcel of land on which it is located, unless the relocation of the structure containing the major nonconforming use decreases the nonconformity.

4. **Change in use.** A major nonconforming use shall not be changed to any other use, unless any new or additional use conforms to the provisions of this Code for the zoning district in which the use is located. A major nonconforming use physically superseded by a permitted use shall not be reestablished.

5. **Discontinuance or abandonment.** If a major nonconforming use is discontinued, abandoned, or becomes an accessory use for a period of more than six (6) consecutive months or for eighteen (18) months during any three (3) consecutive years, then such use may not be re-established or resumed, and any subsequent use shall conform to the provisions specified by this Code. When government action can be documented as the reason for discontinuance or abandonment, the time of delay by government shall not be calculated for the purpose of this section.

B. Minor Nonconforming Use.

1. **Normal maintenance or repair.** Normal maintenance or repair of structures where minor nonconforming uses are located may be performed in any period of twelve (12) consecutive months, as well as repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding thirty (30) percent of the current assessed value of the structure.

2. **Enlargement or expansion.** A minor nonconforming use may be enlarged or expanded as follows:

   a. A minor nonconforming use prohibited in the district in which it is located may expand on one (1) occasion, through the administrative variance process as established in Sec. 5.7.G. The administrative variance shall be permitted provided that the enlargement or expansion complies with Art. 11, Adequate Public Facilities Standards, would not exceed ten (10) percent of the floor area of that individual structure or ten (10) percent of the original assessed value of the structures on site, whichever is less.

   b. A minor nonconforming use that is not in compliance with this Code's physical requirements, such as landscaping, locational criteria or parking regulations, or this Code's permit requirements, such as possessing a required development order for conditional use, may expand on one (1) occasion, pursuant to Development Review Committee review. Based on the standards set forth in this section, the DRC shall deny, approve or approve with conditions the request for expansion pursuant to the process established in Article 5 of this Code.

      The request shall be permitted provided all of the following apply:

      (1) The enlargement or expansion would not exceed ten (10) percent of the floor area of the structure or appraised value of the structures on site, whichever is less;
      (2) The expansion does not create any additional nonconformities;
      (3) The use and expansion are in compliance with Article 11, Adequate Public Facilities Standards;
      (4) The use and the expansion complies with Environmental Control Rules I and II;
      (5) The use and the expansion will result in a reduction of nonconforming features to the greatest extent practicable;
      (6) The use and the expansion will comply with the landscape, vegetation preservation and protection, and lighting provisions of this Code; and,
      (7) The use and the expansion will comply with Article 15.1, Traffic Performance Standards.

3. **Relocation.** A structure containing a minor nonconforming use shall not be moved in whole, or in part, to another location on or off the parcel of land on which it is located, unless the relocation of the structure containing the minor nonconforming use decreases the nonconformity.

4. **Change in use.** A minor nonconforming use shall not be changed to any other use, unless any new or additional use conforms to the provisions of this Code for the zoning district in which the use is located. A minor nonconforming use that is physically superseded by a permitted use shall not be reestablished.

5. **Discontinuance or abandonment.** If a minor nonconforming use is discontinued, abandoned, or becomes an accessory use for a period of more than six (6) consecutive months or for eighteen (18) months during any three (3) consecutive years, then such use may not be re-established or resumed, and any subsequent use shall conform to the provisions specified by this Code. When government action can be documented as the reason for discontinuance or abandonment, the time of delay by government shall not be calculated for the purpose of this section.

[Ord. No. 94-23]

Table 1.7-1
Schedule of Nonconforming Uses

Land Use*	Zoning Districts																							
	PC	AGR	AP	SA	RESR	AR	CRS	RE	RT	RTS	RTU	RS	RM	RH	CN	CC	CG	CGO	CLO	CRE	IL	IG	PIPD	PO
AGRC[1]	A	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
RSF[2]	A	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
RMF[3]	A	A	A	A	A	A	A	A	A	A	A	A	B	B	B	B	B	B	B	B	B	B	B	B
MH[4]	A	B	B	B	B	B	B	B	B	B	B	A	B	B	B	B	B	B	B	A	B	B	B	B
Comm-<25[5]	A	A	A	B	B	A	A	A	A	A	A	A	B	B	B	B	B	B	B	A	B	B	B	B
Comm->25[6]	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	B	B	A	A	A	B	B	B	B
OFF[7]	A	A	A	A	A	A	A	A	A	A	A	A	A	B	B	B	B	B	B	A	B	B	B	B
L-Ind[8]	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	B	B	B	A
H-Ind[9]	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	B	B	A
Inst[10]	A	A	A	A	A	A	A	A	A	A	A	A	B	B	B	B	B	B	B	B	B	B	B	B

Note:

* Regardless of zoning district, whether a use is a major nonconforming or a minor nonconforming use is determined by the specific land use in a zoning district.

** "A" constitutes a Major Nonconforming Use.

*** "B" constitutes a Minor Nonconforming Use.

1. AGRC means an Agricultural land use.
2. RSF means a Residential Single Family land use.
3. RMF means a Residential Multi Family land use.
4. MH means a Mobile Home land use.
5. Comm-<25 means a Commercial land use of less than 25,000 sq ft.
6. Comm->25 means a Commercial land use of greater than 25,000 sq ft.
7. OFF means an Office land use.
8. L-Ind means a Light Industrial land use.
9. H-Ind means a Heavy Industrial land use.
10. Inst means an Institutional land use.

THIS PAGE INTENTIONALLY LEFT BLANK

SEC. 1.8 NONCONFORMING STRUCTURES. A nonconforming structure devoted to a use permitted in the zoning district in which it is located, may be continued in accordance with the provisions in this section.

A. **Normal maintenance**. Normal maintenance or repair to permit continuation of a nonconforming structure may be performed in any period of twelve (12) consecutive months, as well as repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding twenty (20) percent of the current assessed value of the structure.

B. **Enlargement or expansion**. A nonconforming structure may be enlarged or expanded if the enlargement or expansion meets the requirements of this Code (except the dimensional lot area requirements of the zoning district in which it is located), as long as the enlargement or expansion does not change or increase the nonconformity, or add structures or uses prohibited in the zoning district.

C. **Relocation**. A nonconforming structure shall not be moved, in whole or in part, to another location on or off the parcel of land on which it is located, unless it conforms to the standards and requirements of the zoning district in which it is located.

D. **Damage and restoration of nonconforming structure**.

1. A nonconforming structure that is reconstructed, destroyed or rebuilt by any means to an extent of more than thirty (30) percent of its value at the time of reconstruction, or destruction, shall not be reconstructed except in conformity with the provisions of this Code. This subsection shall apply to the cumulative changes in value as a nonconforming structure is redeveloped and improved over the previous seven (7) years.

2. The value of the nonconforming structure shall be determined by taking one hundred twenty-five (125) percent of the most recent assessed value of the nonconforming structure, as determined by reference to the records of the Palm Beach County Property Appraiser.

3. In determining whether the value of the improvement exceeds thirty (30) percent of the property's value, the "aggregate cost approach" as outlined in the most current building valuation data published by the Southern Building Code Congress International in the periodical "Southern Building," or other comparable guidelines adopted in law or accepted in practice by the Building Director, shall be used as the sole basis for calculation.

4. Should a nonconforming structure be reconstructed, destroyed and rebuilt by any means to an extent less than thirty (30) percent but more than twenty (20) percent of its assessed value, it may be restored only upon application to the Board of Adjustment as a variance request pursuant to the terms in Sec. 5.7.

5. To establish its jurisdiction over the variance request, the Board of Adjustment shall determine whether the valuation falls within the parameters established in this subsection. If it does, the Board of Adjustment shall determine whether the nonconforming structure can function adequately without meeting the Code requirements that render it a nonconforming structure.

6. In making its determination, the Board of Adjustment shall be guided by the following standards:

   a. The degree of nonconformity of the structure;
   b. If the nonconformity will continue, whether the relationships among the various design elements of the lot, parcel or structure (such as parking, landscaping, vehicular circulation, or access points) are adequate to meet minimum health and safety standards;

   c. Whether continuation of the nonconforming structure will create or contribute to a health and safety hazard in or adjacent to the nonconforming structure; and

   d. Whether the nonconforming structure can be reduced in intensity or redesigned to mitigate the effects of the nonconformity.

E. Unsafe structure. Any portion of a nonconforming structure which becomes physically unsafe or unlawful due to lack of repairs and maintenance, and which is declared unsafe or unlawful by a duly authorized County official, but which an owner wishes to restore, repair, or rebuild, shall be restored, repaired, or rebuilt in conformity with the provisions of this Code.

SEC. 1.9 NONCONFORMING LOTS.

A. Residential development. A single family dwelling and customary accessory uses may be developed on a single lot, if all of the following conditions are met:

1. **Development permissible prior to creation of nonconformity.** Development of a single family dwelling and customary accessory uses were permissible under the applicable Code at the time the single lot was created.

2. **Record of creation.** The single lot was:

   a. Of record or was the subject of a recorded agreement for deed or other recorded instrument of conveyance prior to January 23, 1973. Lots created by conveyance after this date shall be reviewed by the County Engineer for compliance with Art. 8, Subdivision, Platting and Required Improvements; or

   b. Shown on a recorded map, plat, drawing or survey prior to the adoption of this Code; or

   c. Determined to be a lot within an antiquated subdivision as determined by the Comprehensive Plan; and

   d. Not subject to the lot recombination requirements of Art. 8., Subdivision, Platting and Required Improvements, or the Comprehensive Plan.

   e. Legally subdivided prior to the adoption of this Code.

3. **Property development regulations.** The proposed use is permitted and the single lot meets the minimum property development regulations that are generally applicable in the zoning district in which it is located, except for the minimum lot area and dimensions, minimum yard setback requirements, maximum lot coverage and maximum total floor area. If the single lot, tract or parcel of land does not meet the setback and lot coverage regulations of the current underlying zoning district, the following minimum yard setback, and maximum lot coverage requirements may be applied, for the specific lot characteristics which are nonconforming, in lieu of the district property development regulations.

   a. Minimum Yard Setback Requirements[1].

Front	30% of depth.
Side (corner)	20% of width.
Side (interior)	15% of width.
Rear	20% of depth.

   b. Maximum Lot Coverage: 40% of total lot area.

   [1] Lots one and one half (1½) acre or smaller, that cannot accommodate current setbacks or a percentage setback for a particular yard, may apply a minimum twenty-five (25) foot setback.

B. Non-residential development. Non-residential development and customary accessory uses may be developed on a single lot if all of the following conditions are met:

1. **Development permissible prior to creation of nonconformity.** Development of the non-residential development and customary accessory uses were permissible under the applicable Code at the time the single lot was created.

2. **Record of creation.** The single lot was:

   a. Of record or was the subject of an agreement for deed which was recorded or proof of agreement is furnished, or other recorded instrument of conveyance prior to January 23, 1973. Lots created by conveyance after this date shall be reviewed by the County Engineer for compliance with Art. 8, Subdivision, Platting and Required Improvements; or

   b. Shown on a recorded map, plat, drawing or survey prior to the adoption of this Code; or

   c. Determined to be a lot within an antiquated subdivision as determined by the Comprehensive Plan; and

   d. Not subject to the lot recombination requirements of Art. 8., Subdivision, Platting and Required Improvements.

   e. Legally subdivided prior to the adoption of this Code.

3. **Property development regulations.** The proposed use is permissible under this code and all supplementary development regulations for the use, including but not limited to minimum lot areas or additional setbacks or the proposed use obtains a variance pursuant to the requirements of Sec. 5.7.

[Ord. No. 93-4] [Ord. No. 94-23] [Ord. No. 95-24]

C. Zoning district amendment on lots of record. When amending the zoning district designation of a portion of a single lot of record, that portion proposed for amendment shall be subject to the density or intensity requirements of the Comprehensive Plan.

SEC. 1.10 PROPERTIES AFFECTED BY EMINENT DOMAIN PROCEEDINGS.

A. **Applicability.** This section of the Code shall apply to all properties impacted by an eminent domain action. Site improvements and conditions, including nonconforming features, existing prior to the time of the eminent domain action shall not be affected this section. Nonconforming uses shall not be affected by this section. The provisions of this section shall not alone cause a specific use on a property impacted by an eminent domain action to cease.

For the purposes of this ordinance, an "eminent domain action" occurs when property is acquired through an eminent domain proceeding or where such property is voluntarily conveyed under the threat of condemnation to a condemning authority.

B. **Properties Affected by Eminent Domain Action.** Properties, and site improvements developed thereupon, impacted by eminent domain action may continue to exist and may expand as outlined below.

1. **General.** Where, due to an eminent domain action, a reduction in the size of a lot causes a reduction below the required lot area, setbacks, parking, landscaping, sign location or other development regulations in this Code, the structure(s) on the property, the use(s) within the structure(s) and other site improvements may continue to exist in the configuration remaining after the condemnation, except that:

   a. **Accessways.** The length of accessways shall not be less than ten (10) feet measured from the measured from the right-of-way line, unless otherwise approved in writing by the County Engineer based on accepted traffic engineering principles; and

   b. **Direction.** Ingress and egress to the site shall be in a forward direction. Where parking is reduced, the use of off-site parking, cross parking agreements and shared parking agreements are encouraged.

2. **Enlargement or change in use.** A structure or other site improvement located on property reduced by an eminent domain action may be enlarged or expanded if the enlarged or expanded portion meets the requirements of this Code. Changes in use are allowed if permitted by the applicable zoning district. Additional parking is required only for the increase in parking required by the enlargement or change in use. The required parking for the new use shall be calculated by subtracting the number of required spaces for the new use (less any excess spaces existing at the time of the eminent domain action, if any) from parking requirement for the most current use. For the purpose of determining the required parking, the code in effect at the time of the enlargement or change in use shall be used. There shall be no reduction in required spaces designated for physically disabled persons.

3. **Redesign of Sites.** Redesign of sites, at any time, is encouraged for the purposes of achieving safer sites and enhanced landscaping along roadways. Toward this end, site improvements may be relocated or replaced elsewhere on site and shall be approved provided the redesign meets code requirements, except as modified in this section. Redesign shall follow the permitting procedures of this code, except for provisions noted below which are intended to provide additional flexibility.

   a. **Variance required for new deviation from regulations.** A variance shall be obtained for any additional deviation from required property development regulations or site design standards proposed by the redesign. Any redesign or expansion which reduces an existing deviation from required property development regulations or site design standards does not require a variance. For the purposes for applying the variance standards in Sec. 5.7 of this code, the eminent domain action shall be presumed to be sufficient evidence to demonstrate hardship for variances resulting from the eminent domain action.

   b. **Amendment of Board of County Commissioners approved site plans.** Where a proposed redesign is located on property which is the subject of a site plan approved by the Board of County Commissioners, redesign shall be approved by the Development Review Committee even if the redesign proposes site plan changes in excess of the administrative limits contained in Secs. 5.4.E.13 and 5.4.D.13, of this Code, provided it meets code or the provisions of this section. Conditions imposed by the Board of County Commissioners shall not be amended without Board of County Commissioners approval.

   c. **Variance and DRC approval not required.** To encourage site redesign, in cases when Development Review Committee site plan approval and a variance would both be required, only a variance shall be required.

   d. **Parking area reduction.** If site redesign involves either a lot combination, vehicular use area or other alteration required by subsection 1.10.B.1 (accessways), a reduction of up to thirty-five (35%) percent of the required spaces shall be permitted by right provided:

      (1) The access standards of Secs. 7.7 and 7.2 C.13 of this code are met; and
      (2) A landscape buffer strip a minimum of five (5) feet wide with landscaping as required in Sect. 7.3.E is installed along the frontage of the property.

4. **Damage or restoration of structures.** A structure subject to this section which becomes damaged may be reconstructed in the location and manner as it legally existed after the eminent domain action except that a structure that is destroyed or damaged in excess of more than fifty (50) percent of its value at the time of reconstruction shall be considered a vacant lot pursuant to Sec. B.6, below. In determining the value of such a structure, the standards and procedures described in Sec. 1.8.D of this code shall be used.

5. **Signs.** Any existing legally established point of purchase or free standing sign that is located within the property included in the eminent domain action may be relocated on site subject to the standards of this Section of the Code and the following criteria:

   a. **Sign number and size.** Any sign(s) to be relocated shall comply with the height, size (face area) and maximum number of signs allowed requirements of the Code.

   b. **Sign relocation.** In no event shall the front setback be less than five (5) feet from the ultimate right-of-way and have less than a two (2) feet side setback, except upon receipt of a sign relocation permit.

c. **Sign relocation permit.** Signs that must be relocated which are physically precluded from compliance with the setback requirement in subsection 1.10.B.5.b., above, may obtain, upon payment of a fee, a sign relocation certificate from the Zoning Director subject to this subsection. The Zoning Director shall issue a sign relocation certificate provided the applicant can meet the following standards:

(1) The sign relocation in accordance with subsection 1.10.B.5.b., above, would create additional loss in the number of required parking;
(2) The proposed sign location does not encroach into the right-of-way, unless it is part of a negotiated settlement with the condemning authority; and
(3) There is no other location on the subject property to place the sign consistent with safe vehicular use area design.

6. **Vacant lots.** A vacant lot reduced by an eminent domain action to any size or configuration below required the district lot size, frontage, depth or width specified in Sec. 6.5, property development regulations, may be developed. Uses subject to special lot size requirements of Sec. 6.4, substantive regulations, shall be required to comply with those standards. In all cases, required district setbacks shall be used.

7. **Lot combination.** This subsection is intended to encourage the combining of lots for the purposes of creating safer, more functional and aesthetically pleasing developments and attaining a greater degree of compliance with code requirements. This subsection may apply to the combined lots whether or not they are owned by the same person.

Combined lots may be developed as a single lot for the purposes of applying property development regulations provided either a cross parking or cross access agreement is executed. The agreement shall be made in the form acceptable to the County Attorney and recorded in the official records of Palm Beach County, Florida.

Lot combination shall follow the permitting requirements and procedures of this code, except as clarified or provided for below:

a. **Parking credit.** Except as provided below (razed lots), required parking for combined lots may be administratively reduced by up to twenty (20) percent upon approval by the Zoning Director of a site plan which reduces points of access and the execution of a unity of control which includes a cross parking or cross access agreement.

b. **Razed sites.** Lots which have been combined and where the principal structures have been demolished shall be considered to be a vacant lot pursuant to Sec. 1.10.B.6, above.

c. **Sites subject to approved site plans or Certificates of Conformity.** For properties which are the subject of a valid Certificate of Conformity, the Certificate may be amended, upon application by the property owner and approval of the Development Review Committee, to allow the combination and the configuration shown on the Certificate may be implemented. Where a proposed lot combination is located on property which is the subject of a site plan approved by the Board of County Commissioners, combination may be approved by the Development Review Committee even if the redesign proposes site plan changes in excess of the administrative limits contained in sects. 5.4.E. 13 and 5.4.D 13, of this Code. Conditions imposed by the Board of County Commissioners shall not be amended without Board of County Commissioners approval.

[Ord. No. 93-17]

C. Certificates of Conformity. A Certificate of Conformity issued pursuant to either Ordinance 73-2, as amended, or Ordinance 92-20, as amended through June 1993, shall be honored provided the Certificate of Conformity has been issued to the property owner or a notice of intent to issue a certificate of conformity has been signed by the property owner before June 30, 1994. The site configurations depicted in these Certificates of Conformity shall be considered valid pursuant to Sec. 1.5 of this Code and may be implemented or amended by the Development Review Committee. All other Certificates of Conformity, including Notices of Intent to Issue a Certificate of Conformity, shall become null and void.

SEC. 1.11 CREATION OF POTENTIALLY BUILDABLE RESIDENTIAL SINGLE FAMILY LOTS.

A. **Applicability.** The following provisions shall apply to the development of any lot which is not depicted on either a plat of record, affidavit of exemption, or affidavit of plat waiver, currently valid and in effect for the subject project.

B. **Determination Criteria.** A residential single family lot, as originally conveyed, may be considered eligible for building permits if determined that the lot complies with the following criteria:

1. **Legal Recordation of lot.** The single family lot was conveyed into ownership separate from abutting lands pursuant to a recorded deed, recorded agreement for deed or other recorded instrument of conveyance after February 2, 1973 and prior to June 16, 1992 and has not been reconveyed, in whole or in part, into common ownership with an abutting property.

2. **Density criteria.** The lot created by conveyance pursuant to Section 1.11.B.1 complied with the density requirements of the Comprehensive Plan in effect at the time the lot was created.

   The 1972 Land Use Plan (now termed Comprehensive Plan) was effective from December 6, 1972 through August 1, 1980. The 1980 Comprehensive Plan was effective from August 1, 1980 to August 31, 1989. The 1989 Comprehensive Plan was effective August 31, 1989 and is still in effect.

3. **Zoning requirements.** The lot complies with all other development standards of the zoning regulations adopted June 16, 1992. A variance shall not be permitted to reduce the lot size to qualify to meet the requirements of this subsection.

4. **Legal Access.** The lot has legal access, established at the time the lot was recorded, in compliance with the following:

   a. The street classifications found in Chart 8.22-2 (Access and circulation systems); or

   b. A recorded express easement, a minimum of 20 feet in width, granting the owner, its successors and assigns a perpetual right of useable access across all properties lying between said lot and a street.

C. **Determination of compliance.** Prior to the submittal of a building permit application, the property owner shall submit, on forms established by the Zoning Director, a request for a determination that the lot is in compliance with this subsection. The Zoning Director shall make a determination within 10 days.

D. Recordation of a potentially buildable lot. After issuance of a determination of compliance, but prior to the submittal of a building permit, the property owner shall record a Potentially Buildable Lot Affidavit, survey, and legal description of the lot with the Clerk of the Court, in a form established by the Zoning Director.

E. Issuance of a building permit. If a Buildable Lot Affidavit is recorded in accordance with the standards and procedures herein and the lot and proposed residence comply with zoning requirements, drainage requirements, environmental control rules and all other permitting requirements, a building permit may be issued.

[Ord. No. 95-24]

[Ord. No. 93-4; February 2, 1993] [Ord. No. 93-17; July 20, 1993] [Ord. No. 94-9; May 3, 1994] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-24; July 11, 1995]

ARTICLE 2.

INTERPRETATION OF THE CODE

TABLE OF CONTENTS

ARTICLE 2
INTERPRETATION OF THE CODE

2.1 INTERPRETATIONS 1
A. Authority 1
B. Initiation 1
C. Procedures 1
1. Submission of request for interpretation. 1
2. Determination of sufficiency. 1
3. Rendering of interpretation. 2
D. Form 2
E. Appeal 2
1. Initiation 2
2. Public hearing 2
3. Standard of review 2
F. Official record 2

SEC. 2.2 ASSISTANCE OR REPRESENTATION BY STAFF 2

ARTICLE 2.

INTERPRETATION OF THE CODE

SEC. 2.1 INTERPRETATIONS.

A. **Authority.** Interpretations to this Code shall be made by the Executive Director of PZB, the County Engineer, the Director of ERM, the Impact Fee Coordinator, and the County Health Director. The County Engineer shall have the authority to make all interpretations of Sec. 7.7, Driveways and Access; Article 15, Traffic Performance Standards; and Art. 8, Subdivision. The Director of ERM shall have the authority to make all interpretations of Sec. 7.5, Vegetation Preservation and Protection, Sec. 7.6, Excavation, and Art. 9, Environmental Standards. The Impact Fee Coordinator shall have the authority to make all interpretations of Art. 10, Impact Fees. The County Health Director shall have the authority to make all interpretations of Sec. 7.4 and Article 16, the Clean Fill Ordinance, and the Environmental Control Rules I and II. The County Attorney shall have the authority to make all interpretations of Article 7, Sec.7.15, Maintenance and Use Documents. The Executive Director of PZB shall have the authority to make interpretations of all other provisions of this Code and the Official Zoning Map.

B. **Initiation.** An interpretation may be requested by any landowner or person having a contractual interest in land in unincorporated Palm Beach County, or any person that has submitted an application for development permit pursuant to the procedures of this Code.

C. **Procedures.**

1. **Submission of request for interpretation.** Before an interpretation shall be provided by the appropriate County official, a Request for Interpretation shall be submitted to the appropriate County official in a form established by that County official and made available to the public. The request shall be accompanied by a fee established by the Board of County Commissioners from time to time for the filing and processing of the Request for Interpretation. The fee shall be non-refundable.

2. **Determination of sufficiency.** Within five (5) working days after a Request for Interpretation has been submitted, the County official responsible for rendering the interpretation shall determine whether it is sufficient.

   a. **Determined not sufficient.** If the County official determines that the request is not sufficient, a written notice shall be served on the applicant specifying the deficiencies. The County official shall take no further action on the Request for Interpretation until the deficiencies are remedied. If the applicant fails to correct the deficiencies within ten (10) working days, the Request for Interpretation shall be considered withdrawn.

   b. **Determined sufficient.** When the Request for Interpretation is determined sufficient, the County official shall review and render an interpretation pursuant to the procedures and standards of this article.

3. **Rendering of interpretation.** Within fifteen (15) working days after the Request for Interpretation has been determined sufficient, the County official responsible for rendering the interpretation shall review and evaluate the request in light of the Comprehensive Plan, this Code, and the Official Zoning Map, whichever is applicable, consult with the County Attorney, and then render an interpretation.

D. Form. The interpretation shall be in writing and shall be sent to the applicant by mail within five (5) working days after the interpretation is made by the appropriate County official.

E. Appeal.

1. **Initiation.** Twenty (20) working days after issuance of a written interpretation by the appropriate County official responsible for rendering the interpretation, the applicant may appeal the decision to the Board responsible for appeal, as provided in this Code.

2. **Public hearing.** The Board responsible for the appeal shall hold a hearing on the appeal within forty (40) working days of the appeal.

3. **Standard of review.** At the appeal hearing, the Board shall consider the interpretation of the County official responsible for rendering the interpretation and public testimony in light of the Comprehensive Plan, this Code, and the Official Zoning Map, whichever is applicable. The Board shall not modify or reject the County official's interpretation, if it is supported by substantial competent evidence, unless the interpretation is found to be contrary to the Comprehensive Plan, this Code or the Official Zoning Map, whichever is applicable.

F. Official record. Each County official responsible for rendering an interpretation shall maintain a record of the interpretation, and forward a copy to the Director of Zoning of PZB. This record shall be available for public inspection, upon reasonable request, during normal business hours.
[Ord. No. 93-4]
[Ord. No. 93-4; February 2, 1993]

SEC. 2.2 ASSISTANCE OR REPRESENTATION BY STAFF. Any assistance given or representation made by any member of the staff during consultation shall not constitute the approval of the Department, shall not bind the staff, the Department, the Division, the Executive Director, or the Board of County Commissioners, and shall not relieve any person of any requirements of this Code, or other applicable provisions of federal or state law or local ordinances, If there exists a conflict between any staff representation and the laws, rules, codes or ordinances, such laws, rules, codes or ordinances shall prevail. Nothing herein shall authorize any change to the administrative interpretations of the Code.
[Ord. No. 95-8]
[Ord. No. 95-8; March 21, 1995]

ARTICLE 3.

DEFINITIONS

TABLE OF CONTENTS

ARTICLE 3.
RULES OF CONSTRUCTION
AND DEFINITIONS

		Page
SEC. 3.1	RULES OF CONSTRUCTION	1
A.	Generally.	1
B.	Text	1
C.	Computation of time	1
D.	Day	1
E.	Delegation of authority	1
F.	Gender	1
G.	May.	2
H.	Month.	2
I.	Non-technical and technical words	2
J.	Number	2
K.	Shall	2
L.	Tense	2
M.	Week	2
N.	Written	2
O.	Year	2
P.	Include.	2
Q.	Exclusivity of uses in districts.	2
R.	Interpretation of district boundaries.	2
1.	Center lines.	2
2.	Lot, section and tract lines.	2
3.	Political boundaries.	2
4.	Railroad lines.	2
5.	Shorelines.	3
6.	Parallel lines.	3
7.	Bisecting lines.	3
8.	Uncertainties.	3
9.	Street abandonments.	3
10.	Excluded areas.	3
S.	Special provisions for lots divided by district boundaries	3
1.	Use regulations	3
2.	Property development regulations.	3
T.	Or.	3
U.	And.	3
V.	Measurement of Distance.	4
SEC. 3.2	DEFINITIONS.	4
SEC. 3.3	ABBREVIATIONS AND ACRONYMS.	80

ARTICLE 3.

RULES OF CONSTRUCTION AND DEFINITIONS

SEC. 3.1 RULES OF CONSTRUCTION. In the construction of the language of this Code, the rules set out in this section shall be observed unless such construction would be inconsistent with the manifest intent of the Board of County Commissioners as established in the Comprehensive Plan. The rules of construction and definitions set out herein shall not be applied to any express provisions excluding such construction.

A. Generally.

1. All provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the Board of County Commissioners as established in the Comprehensive Plan may be fully carried out. Terms used in these regulations, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of the State of Florida for the same terms.

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

3. Some technical terms which are unique to an article, are defined in that article, for example, all Traffic Performance Standards are in Article 15, Sec. 15.1.

B. Text. In case of any difference of meaning or implication between the text of this Code and any figure, the text shall control.

C. Computation of time. Computation of time means the time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday or legal holiday, that day shall be excluded.

D. Day. Day means a working weekday unless otherwise stated or used in reference to a violation. Violations shall be calculated on calendar days.

E. Delegation of authority. Whenever a provision appears requiring the head of a department or some other County officer or employee to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize professional-level subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.

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

G. **May**. May means permissive.

H. **Month**. Month means a calendar month.

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

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

K. **Shall**. Shall means mandatory.

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

M. **Week**. Week means seven (7) calendar days.

N. **Written**. Written means any representation of words, letters or figures whether by printing or other form or method of writing.

O. **Year**. Year means a calendar year, unless a fiscal year is indicated or 365 calendar days is indicated.

P. **Include**. Use of "include" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

Q. **Exclusivity of uses in districts**. The permitted uses and conditional uses in the districts established in Article 6, Zoning Districts, are exclusive, and shall be permitted subject to the standards and procedures of this Code.

R. **Interpretation of district boundaries**. Where uncertainty exists concerning boundaries of districts as shown on the Official Zoning Map, the following rules shall be used in the interpretation of the district boundaries.

1. **Center lines.** Boundaries indicated as approximately following the center lines of streets, alleys or highways shall be construed as following such center lines.

2. **Lot, section and tract lines.** Boundaries indicated as approximately following platted lot lines, section or tract lines shall be construed as following such lines.

3. **Political boundaries.** Boundaries indicated as approximately following political boundaries shall be construed as following such political boundaries.

4. **Railroad lines.** Boundaries indicated as following railroad lines shall be construed as following the center line of the railroad right-of-way.

5. **Shorelines.** Boundaries indicated as approximately following shorelines shall be construed as following such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.

6. **Parallel lines.** Where boundaries are approximately parallel to a street, highway, road, alley or railroad right-of-way, the distance of such boundaries from the property line of such street, highway, road alley or railroad right-of-way, shall be, unless otherwise shown by dimensions, one lot depth on lots facing said street, highway, road, alley or railroad right-of-way, or approximately one hundred fifty (150) feet, on acreage and tracts or on parallel lots, to the nearest lot line between lots to conform to adjacent district lines.

7. **Bisecting lines.** Where boundaries approximately bisect blocks, the boundaries are the median line of such blocks, between the center lines of boundary streets.

8. **Uncertainties.** Where the physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in case any other uncertainty exists, the Zoning Director shall interpret the intent of the Official Zoning Map as to the location of boundaries.

9. **Street abandonments.** Where a public road, street or alley is officially vacated or abandoned, the regulations applicable to the land to which it reverted shall apply to such vacated or abandoned road, street, or alley.

10. **Excluded areas.** Where parcels of land and water areas have been inadvertently excluded from a district classification in any manner, said parcels shall be given a classification by the Board of County Commissioners that is consistent with the Comprehensive Plan. Such cases shall be processed in the same manner as applications for development permits for amendments to the Official Zoning Map.

S. Special provisions for lots divided by district boundaries. Where any lot, existing at the effective date of this Code, is located in two (2) or more districts in which different uses are permitted, or in which different use, area, bulk, accessory offstreet parking and loading, or other regulations apply, the provisions of this section shall apply.

1. **Use regulations.** If more than fifty (50) percent of the lot area is located in one (1) of two (2) or more districts, the use regulations applicable to the district containing the majority lot area shall apply to the entire lot, if consistent with the Land Use designation on the Comprehensive Plan.

2. **Property development regulations.** If more than fifty (50) percent of the lot area is located in one (1) of two (2) or more districts, the property development regulations applicable to the district containing the majority lot area shall apply to the entire lot.

[Ord. No. 93-4]

T. Or. Either or both cases may apply.

U. And. All cases must apply.

V. Measurement of Distance. Words requiring distance separation between a proposed use and another use shall require the spatial separation between the proposed and the other use within unincorporated Palm Beach County and, if applicable, between the proposed use in Palm Beach County and uses in other jurisdictions including municipalities and other counties.

[Ord. No. 93-4]

[Ord. No. 93-4; February 2, 1993]

SEC. 3.2 DEFINITIONS. Terms in this Code shall have the following definitions.

A-Weighted sound pressure level means the sound pressure level as measured with a sound level meter using the A-Weighting network. The standard notation is Db(A) or DBA.

Abandoned sign means a sign on which is advertised a business that is no longer licensed, no longer has a certificate of occupancy, or is no longer doing business at that location.

Absorption area means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), the total surface area of the bottom of a drainfield.

Absorption bed means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), the drainfield system in which the entire earth contents are removed and replaced with filter material and distribution pipe.

Abutting property means property lying immediately adjacent to and sharing a common property line with other property.

Access means a way to enter or exit a facility or property.

Access, legal means the principal means of access from a lot to a public street or to a private street over which a perpetual ingress and egress easement or right of way has been granted to the owners of any lot serviced by such street.

Access way means a non-dedicated area which is permitted for ingress or egress of vehicles or pedestrians. An access way is permitted to traverse a required landscape buffer.

Accessory dwelling means a second dwelling unit either in or added to an existing single-family dwelling, or in an accessory structure on the same lot as the principal single-family dwelling. An accessory dwelling is a complete, independent living facility equipped with a kitchen and with provisions for sanitation and sleeping.

Accessory building or structure means a detached, subordinate building meeting all property development regulations, the use of which is clearly incidental and related to that of the principal building or use of the land, and which is located on the same lot as that of the principal building or use.

Accessory use see Use, accessory.

Acre means land or water consisting of forty-three thousand five hundred sixty (43,560) square feet.

Act: the Local Government Comprehensive Planning and Land Development Regulation Act, Sec. 163.3161, Fla. Stat. et seq. (1989) as may be amended from time to time.

Adequate protection by treatment means, for the purpose of Sec. 16.2 (Water Supply Systems), any one or any combination of the controlled processes of coagulation, sedimentation, absorption, filtration, or other processes in addition to disinfection which produces a water consistently meeting the requirements of Art. 16 including processes which are appropriate to the source of supply.

Adequate Public Facilities Determination means a Determination approved by the Planning Director pursuant to the terms of Art. 11, Adequate Public Facility Standards, that serves as a statement that based upon existing public facility capacity and planned public facility capacity, adequate public facilities are available to serve the development at the time of the approval of the Adequate Public Facilities Determination.

"A" Frame or Sandwich sign means a portable sign which is ordinarily in the shape of an "A" or some variation thereof that usually has no wheels nor permanent foundation.

Administrative/Agency inquiry means a request for a Board of County Commissioners' direction on procedural or interpretative matters.

Adult arcade means for the purposes of the Adult Entertainment Establishment provisions of this Code, any place or establishment operated for commercial gain which invites or permits the public to view adult material. For purposes of this Code, "adult arcade" is included within the definition of "adult theater."

Adult bookstore/adult video store means for the purposes of the Adult Entertainment Establishment provisions of this Code, an establishment which sells, offers for sale or rents adult material for commercial gain; unless the establishment demonstrates either (1) the adult material is accessible only by employees and the gross income from the sale or rental of adult material comprises less than forty (40) percent of the gross income from the sale or rental of goods or services at the establishment, or (2) the individual items of adult material offered for sale or rental comprise less than ten (10) percent of the individual items, as stock in trade, publicly displayed in the establishment and which is not accessible to minors at the establishment.

Adult booth means for the purposes of the Adult Entertainment Establishment provisions of this Code, a small enclosed or partitioned area inside an adult entertainment establishment which is: (1) designed or used for the viewing of adult material by one (1) or more persons and (2) is accessible to any person, regardless of whether a fee is charged for access. The term "adult booth" includes, but is not limited to, a "peep show" booth, or other booth used to view adult material. The term "adult booth" does not include a foyer through which any person can enter or exit the establishment, or a restroom.

Adult dancing establishment means for the purposes of the Adult Entertainment Establishment provisions of this Code, an establishment selling, serving or allowing consumption of alcoholic beverages, where employees display or expose specified anatomical areas to others regardless of whether the employees actually engage in dancing.

Adult entertainment means:

1. Any adult arcade, adult theater, adult bookstore/adult video store, adult motel, or adult dancing establishment; or any establishment or business operated for commercial gain where any employee, operator or owner exposes his/her specified anatomical area for viewing by patrons, including but not limited to: massage establishments whether or not licensed pursuant to chapter 480, Florida Statutes, tanning salon, modeling studio, or lingerie studio.

2. Excluded from this definition are any educational institutions where the exposure of the specified anatomical area is associated with a curriculum or program.

3. An establishment that possesses an adult entertainment license is presumed to be an adult entertainment establishment.

Adult material means for the purposes of the Adult Entertainment Establishment provisions of this Code, any one (1) or move of the following, regardless of whether it is new or used:

1. Books, magazines, periodicals or other printed matter; photographs, films, motion pictures, video cassettes, slides, or other visual representations; recordings, other audio matter; and novelties or devices; which have as their primary or dominant theme subject matter depicting, exhibiting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or;

2. Instruments, novelties, devices or paraphernalia which are designed for use in connection with specified sexual activities.

Adult motel means for the purposes of the Adult Entertainment Establishment provisions of this Code, a hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions.

Adult theater means for the purposes of the Adult Entertainment Establishment provisions of this Code, an establishment operated for commercial gain which consists of an enclosed building, or a portion or part thereof or an open-air area used for viewing of adult material. "Adult motels," "adult arcade," "adult booth" and "adult motion picture theater" are included within the definition of "adult theater". An establishment which has "adult booths" is considered to be an "adult theater."

Adult video store see Adult Bookstore.

Advertising sign means a sign representing or directing attention to a business, commodity, service, or entertainment, conducted, sold, or offered.

Advertising structure means any structure erected for advertising purposes, with or without any advertisement displayed thereon, situated upon or attached to land, upon which any poster, bill, printing, painting, device or other advertisement may be placed, posted, painted, tacked, nailed, or otherwise fastened, affixed, or displayed. "Advertising structure" does not include buildings.

Aerobic treatment unit means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), a treatment receptacle in which air is introduced into the sewage so as to provide aerobic biochemical stabilization during a detention period.

Affidavit of exemption means a document, recorded in the public record, evidencing the grant of an exemption for an unrecorded subdivision existing prior to February 5, 1973, from the provisions of the former Palm Beach County Subdivision and Platting Regulations (Ord. 73-4, as amended), granted pursuant to said regulations.

Affidavit of waiver means a document evidencing the grant of an exception to the platting requirement or the required improvements installation requirement.

Affordable housing means a dwelling unit for which a household spends no more than thirty percent of its gross income for housing costs. Rental housing costs include contract rent and utilities. Owner occupied housing costs include mortgage principle and interest, property taxes, insurance, and, where applicable, homeowner's association fees. The current median income for Palm Beach County and income categories established within the Comprehensive Plan are available at the Planning Division.

Agreement means a Development Agreement, public facilities agreement, or other binding agreement entered into between the applicant and Palm Beach County or other service provided for the purpose of assuring compliance with the adopted level of service standards. The form of the Agreement may include, but not be limited to a Development Agreement pursuant to Sec. 163.3220, Fla. Stat.

Aggrieved or adversely affected person means any person or local government which will suffer an adverse effect to an interest protected or furthered by the Comprehensive Plan, including interests related to health and safety, police and fire protection systems, densities or intensities of development, transportation facilities, health care facilities, or environmental or natural resources. The alleged adverse effect may be shared in common with other members of the community at large, but shall exceed in degree the general interest in common good shared by all persons.

Agriculture, bona fide means any plot of land where the principal use is bona fide agricultural, meaning the raising of crops inclusive of organic farming or animals inclusive of aquaculture or production of animal products such as eggs or dairy products inclusive of apiculture, or a retail or wholesale nursery on an agricultural or commercial basis. Criteria for determining bona fide agriculture is found in 6.4.D.6 Supplemental Use Standards.

Agricultural excavation see Excavation, agricultural.

Agricultural research and development means the use of land or buildings for agriculture research and the cultivation of new agricultural products.

Agricultural sales and service means an establishment primarily engaged in the sale or rental of farm tools and small implements, feed and grain, tack, animal care products, farm supplies and the like, excluding large implements, and including accessory food sales and machinery repair services.

Agricultural transshipment means packing, crating or shipping of agricultural products not grown or raised on site, and specifically excluding slaughterhouses and fish processing.

Air curtain incinerator means the installation or use of a portable or stationary combustion device that is designed and used to burn trees and brush removed during land clearing by directing a plane of high-velocity, forced air through a manifold into a pit with vertical walls in such a manner as to maintain a curtain of air over the surface of the pit and a recirculating motion of air under the curtain.

Air rights mean the right to use space above ground level.

Air space means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), the distance from the liquid level up to the inside top of a treatment receptacle.

Airplane landing strip, accessory means a private ground facility designed to accommodate landing and take-off operations of aircraft used by individual property owners, farm operators, or commercial operations.

Airport means any public or privately owned or operated ground facility designed to accommodate landing and take-off operations of aircraft.

Air Stripper Tower (Remedial System) means a temporary accessory petroleum contamination remedial system which treats contaminated groundwater from a site and treated groundwater is then reintroduced into the aquifer using an on-site recharge mechanism. A typical system includes air stripper towers or shallow tray aerator and infiltration gallery, groundwater recovery wells, and an aboveground centrifugal pump.

Alley means a right-of-way providing a secondary means of access to property and is not intended or used for principal traffic circulation.

Alteration or materially alter means the result of human-caused activity which modifies, transforms or otherwise changes the environment, including but not limited to the following:

1. The addition, removal, displacement, or disturbance (severe pruning, hatracking, poisoning) of vegetation, but shall exclude prescribed ecological burning for the management of native Florida communities, the removal of trees, seedlings, runners, suckers, and saplings of prohibited plant species identified in Article 9, Environmental Standards.
2. Demucking and grading of soil.
3. The removal, displacement, or disturbance of rock, minerals or water.
4. The grazing of cattle or other livestock.
5. The removal, addition, or moving of sand.
6. Any construction, excavation or placement of a structure which has the potential to affect coastal biological resources, the control of beach erosion, hurricane protection, coastal flood control or shoreline and offshore rehabilitation.

Alteration, building means any change in the structure which will increase the number of dwelling units, the floor area, or height of the structure.

Alternative system means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), any approved on-site sewage disposal system which consists of a treatment receptacle other than a septic tank.

Amusements, temporary means an activity which includes the provision of rides, amusements, food, games, crafts or performances outside of permanent structures. Typical uses include carnivals, circuses, auctions, and tent revivals.

Annular space means, for the purpose of Sec. 16.2 (Water Supply Systems), the space between two casings or between the outer casing and the wall of the well bore.

ANSI means the American National Standards Institute or its successor bodies.

Antenna means the arrangement of wires or metal rods used in the sending or receiving of electromagnetic waves.

Antenna support structure means any structure, mast, pole, tripod or tower utilized for the purpose of supporting an antenna or antennas.

Antenna height means the overall vertical length of the antenna and antenna support structures above grade, or if such system is located on a building, then the overall vertical length includes the height of the building upon which the structure is mounted. In the event a retractable or demountable-type antenna support structure is utilized, the antenna height is to be calculated as the overall vertical length of the antenna and antenna support structure when fully extended.

Antiquated subdivision means "Antiquated Subdivision" in the Comprehensive Plan.

Applicant means the owner of record, the agent pursuant to an agent's agreement acceptable to the County Attorney or the mortgagor in the case of bankruptcy.

Approved source when used in reference to bottled water, means, for the purpose of Sec. 16.2 (Water Supply Systems), a source, whether it be from a spring, artesian well, drilled well, municipal water supply or any other source, that has been inspected and the water sampled, analyzed, and found to be of a safe and sanitary quality in accordance with provisions of Sec. 16.2.

Archaeological Evaluation report means a letter prepared by the County Archaeologist evaluating the potential significance of an archaeological site after issuance of a Suspension Order by the Department.

Archaeological Site A property or location which has yielded or might yield information on the County, State or Nation's history or prehistory. Archaeological sites are evidenced by the presence of artifacts and features on or below the ground surface indicating the past use of a location at least seventy-five (75) years ago by people or the presence of non-human vertebrate fossils. Archaeological sites include aboriginal mounds, forts, earthworks, village locations, camp sites, middens, burial mounds, missions, historic or prehistoric ruins which are, or may be the source of artifacts or other items of significant archaeological value. **[Ord. No. 93-4]**

Archaeologist, qualified An archaeologist who is a member of, or is qualified for membership in the Florida Archaeological Council or the Society of Professional Archaeologists.

Architect means a person duly registered and licensed to practice architecture in the State of Florida.

Area of shallow flooding means a designated AO or VO Zone on the Flood Insurance Rate Map (FIRM); the base flood depth ranges from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminable; and velocity flow may be evident.

Area of special flood hazard means the land in the flood plain subject to a one (1) percent or greater chance of flooding in any given year.

Arena, auditorium or stadium means an open,or partially or fully enclosed facility primarily used or intended for commercial spectator sports or entertainment. Typical uses include convention and exhibition halls, sports arenas, jai alai frontons, amphitheaters and race tracks.

Armoring is the placement of manmade structures or device in or near the coastal system for the purpose of preventing erosion of the beach or the upland dune system or to protect upland structures from the effects of coastal wave and current activity. Such structures include but are not limited to seawalks, bulkheads, revetments, rock rip-rap, sand bags, toe scour protection and geotex tile tubing. Armoring does not include structures or activities whose purpose is to add sand to the beach or dune, or structures whose purpose is to alter the natural coastal currents, or to stabilize the mouths of inlets, or minor upland structures whose purpose is to retain upland fill and which are designed to be frangible under high frequency coastal hydrodynamic forces.

Arterial street see Street, arterial.

Artifacts means relics, specimens or objects of historical, prehistorical, archaeological or anthropological nature, over seventy-five (75) years old, which may be found on, above, or below the surface of the earth, including land and water, which have a scientific or historic value as objects of antiquity, as aboriginal relics or as anthropological specimens, including but not limited to clothing, tools and weapons made of ceramics, worked stone, shell, bone, teeth, hide, feathers and horn, metal coins, glass, beads, building material, daub, and plant fibers. Objects over 75 years old but not of significant archaeological value shall not be considered an artifact for purposes of this code. Further, objects under seventy-five (75) years old and deemed by a qualified archaeologist to be of significant archaeological value shall be subject to the provisions of this Code.

Artificial light source shall mean any exterior source of light emanating from a man-made device, including but not limited to, incandescent, mercury vapor, metal halide or sodium lamps, spotlights, flood lights, landscaping lights, street lights, vehicular lights, construction or security lights.

Artisanal use means a land use involving the manufacture and sale of goods using only hand labor or table mounted electrical tools.

Asphalt or concrete plant means an establishment engaged in the manufacture, mixing or batching of asphalt, asphaltic cement, cement or concrete products.

Assembly, nonprofit institutional means a site or facility, open to the public, owned or operated by a not-for-profit organization for social, educational or recreational purposes. Typical uses include museums, cultural centers, recreational facilities, botanical gardens or nonresidential community services such as soup kitchens and medical services.

Assembly, nonprofit membership means a site or facility owned or operated by a not-for-profit organization for social, educational or recreational purposes where paid membership is required. Typical uses include fraternal or cultural organizations and union halls.

Attic means the non-habitable storage area immediately beneath the pitch of a roof.

Auction, enclosed means an establishment engaged in the public sale of goods to the highest bidder, with all of the activity and display of merchandise occurring inside an enclosed building.

Auction, outdoor means an establishment engaged in the public sale of goods to the highest bidder, with all or a portion of the activity and display of merchandise occurring outside of an enclosed building.

Automotive paint or body shop means an establishment engaged in the painting, repainting, or retouching of motor vehicles, or performance of major external repairs of a non-mechanical nature.

Automotive service station means an establishment engaged in the retail sale of gasoline or other motor fuels, which may include accessory activities such as the sale of accessories or supplies, the lubrication of motor vehicles, the minor adjustment or minor repair of motor vehicles, or the sale of convenience food items.

Aviculture means the breeding, raising and care of birds.

Banner see Flag.

Base building line means a line horizontally offset from and running parallel to the centerline of a street from which setbacks for front yard, corner side yard, and lot standards are measured as set forth in Sec. 6.5.G.5.

Base flood means the flood having a one (1) percent chance of being equalled or exceeded in any given year.

Beach means the zone of unconsolidated sand that extends landward from the mean low water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation (usually the effective limit of storm waves). "Beach" is alternately termed "shore".

Beach access point means any path through or over the dune used by the general public; or, with respect to private property, by the owners or with the owner's permission, for the purpose of gaining access to the beach.

Beach cleaning means the clearing or burying of seaweed, debris, dead fish, or trash or the contouring of the beach by raking and leveling, provided that such activity shall not disturb existing beach or dune vegetation. Such activity shall not change the final ground elevations greater than one foot.

Beach compatible sand means any sand that is similar to the native beach and dune material in terms of grain, size, distribution and color. The composition of fill material may be found in Sec. 9.1.B.(Coastal Protection).

Beach fill means sand placed on the beach.

Beachfront lighting means all lighting within the jurisdictional boundaries of Sec. 9.1 Coastal Protection.

Bed and breakfast means an owner-occupied single-family dwelling that offers lodging for paying guests and which serves breakfast to these guests.

Benefit zone means the geographic area as set forth in each individual division within which impact fees are collected and spent pursuant to Art. 10, Impact Fees.

Billboard see Off-premise sign.

Biohazardous waste means any solid waste or liquid waste which may present a threat of infection to humans. The term includes, but not limited to, non-liquid human tissue and body parts; hospital, laboratory or veterinary waste which contains human-disease causing agents; discarded sharps; human blood, human blood products and body fluids.

Blank copy means any paraphernalia including pennants, streamers, and banners that are intended solely to attract attention and which contain no letters or symbols.

Block means a parcel of land entirely surrounded by streets, railroad rights-of-way, parks or other public space or a combination thereof.

Board of County Commissioners (B.C.C.) means the Board of County Commissioners of Palm Beach County, Florida.

Boarding house means a dwelling, or part thereof, in which lodging is provided by the owner or operation to three (3) or more boarders.

Boat trailer means a trailer used or designed to be used for the carrying of boats.

Boatyard means a facility intended to provide complete construction or repair services for marine crafts in addition to such dry storage as may be found complimentary to the primary use, but not including docking of pleasure craft for residential purposes.

Boca Taxing District means the Greater Boca Raton Beach and Park Taxing District, including the municipal limits of Boca Raton.

Balloon means an airtight bag that rises above the earth when force filled with cold air.

Boundary plat see Plat, boundary.

Bottled water means, for the purpose of Sec. 16.2 (Water Supply Systems), water that is sealed in a container or package and is offered for sale for human consumption or other uses.

Bottled water plant means, for the purpose of Sec. 16.2 (Water Supply Systems), any place or establishment in which bottled water is prepared for sale.

Branch means, for purpose of Sec. 7.3 (Landscaping and Buffering), a secondary shoot or stem arising from one of the main axes (i.e, trunk or leader) of a tree.

Breakaway walls mean any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or other suitable building material, that is not part of the structural support of the building and is intended through its design and construction to collapse under specific later loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

Broadcasting studio means an establishment engaged in the provision of commercial broadcasting services accomplished through the use of electronic mechanisms. Typical uses include radio and television broadcasting studios.

Buffer, landscape see landscape, buffer.

Buildable area means the portion of a lot remaining after the setbacks have been provided.

Building means any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.

Building, principal means a building in which is conducted the primary use of the lot on which it is located.

Building construction means the erection of a structure intended for human habitation in the case of residential land use, or occupancy or use of such in the case of non-residential land use.

Building coverage means that portion of the area of a lot, expressed as a percentage, occupied by the square footage of the ground floor area of a building or structure.

Building Director of PZB means the division head of the Building Division of PZB.

Building height means the vertical distance in feet from finished grade to the highest point of the roof for flat roofs; to the deck line for mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs, measured from the grade.

Building permit means an official document or certificate issued by the governmental authority having jurisdiction, authorizing the construction of any building. Building permit includes a tie-down permit for a structure or building that does not require a building permit, such as a mobile home, in order to be occupied.

Building sewer means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), a pipe conveying sewage from a house or building to an on-site sewage disposal system.

Building site means a portion or parcel of land considered as a unit, devoted to a certain use or occupied by a building or group of buildings that are united by a common interest or use and the customary accessory buildings and open spaces belonging to the same.

Building supplies, retail mean an establishment engaged in the retail sale of building supplies and home improvement products.

Building supplies, wholesale mean an establishment engaged in the sale or fabrication and allied products to contractors for the construction, maintenance, repair and improvement of real property. Retail sales of lumber and allied products to the consumer may be conducted, but must be clearly accessory to the primary use.

Bulkheads mean structures of concrete, wood, or other permanent material affixed to the land adjacent to a water management tract or other water body for the purpose of establishing a vertical surface at the waters edge and stabilizing the land behind the bulkhead; provided, however, that water control structures and endwalls around outfalls and bridges shall not be considered bulkheads.

Bulletin board means a sign of permanent character, but with removable letters, words or numerals, indicating the names or persons associated with, or events conducted upon, or products or services offered upon, the premises upon which such a sign is maintained.

Campground means a plot of ground established as a commercial campsite for recreational use and not as living quarters.

Camping cabin means an accessory use for recreational vehicle parks which consists of a cabin used for sleeping.

Canopy, tree means the upper portions of trees consisting of limbs, branches, and leaves, which constitute the upper layer of a forested community.

Capacity means for the purposes of Art. 10, Impact Fees, the maximum number of vehicles for a given time period which a road can safely and efficiently carry, usually expressed in terms of vehicles per day. For the purposes of Art. 10, Impact Fees, the capacity of a road shall be seven thousand five hundred (7,500) vehicles per day per through lane.

Capital drainage facilities means the planning of, engineering for, acquisition of land for, or the construction of drainage facilities necessary to meet the LOS for Capital Drainage Facilities.

Capital facilities; Capital improvements means, for the purposes of Art. 10, Impact Fees, land, infrastructure, structures, and fixtures having a cost or value of at least $1,000; personal property and equipment having an aggregate cost or value of at least $1,000; hard-bound books and materials having a cost or value of at least $25, which must be of a non-consumable nature and be expected to be in service for at least one year; and, in the case of school sites, the land only, and not any improvements to the land.

Capital facility costs means all costs directly associated with the acquisition, design, engineering, site preparation, construction and placement of a capital facility. It excludes operation and maintenance costs, and the repair, replacement, or renovation of existing capital facilities where the capital facility improvement does not add capacity. In the case of the school site acquisition fee, it means the costs directly associated with the acquisition of fee simple absolute marketable title in land, and does not include the costs of improvement to that land.

Capital Fire-Rescue Facilities, means the planning of, engineering for, acquisition of land for, or the construction of fire-rescue facilities and the purchase of equipment necessary to meet the LOS for Capital Fire-Rescue Facilities.

Capital Improvement Element means the Capital Improvement Element of the Palm Beach County Comprehensive Plan.

Capital Mass Transit Facilities means the planning of, engineering for, acquisition of land for, or the construction of or purchase of mass transit facilities and equipment necessary to meet the LOS for Capital Mass Transit Facilities.

Capital Potable Water Facilities means the planning of, engineering for, acquisition of land for, or the construction of potable water facilities necessary to meet the LOS for Capital Potable Water Facilities.

Capital Recreation and Park Facilities means the planning of, engineering for, acquisition of land for, or the construction of buildings and park equipment necessary to meet the LOS for Urban Capital Park and Recreation Facilities and Rural Capital Park and Recreation Facilities.

Capital Road Facilities means the planning of, engineering for, acquisition of land for, or the construction of roads on the Major Road Network System necessary to meet the LOS for Capital Road Facilities.

Capital Sanitary Sewer Facilities means the planning of, engineering for, acquisition of land for, or the construction of sanitary sewer facilities necessary to meet the LOS for Capital Sanitary Sewer Facilities.

Capital Solid Waste Facilities means the planning of, engineering for, acquisition of land for, or the construction of solid waste facilities necessary to meet the LOS for Capital Solid Waste Facilities.

Car wash or auto detailing means an establishment primarily engaged in the washing or detailing of motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor. Detailing includes hand washing and waxing, window tinting, striping, and interior cleaning.

Carport/Private garage means an accessory roofed structure or a portion of a main building providing space for the parking or storage of motor vehicles of the occupants of the main building.

Catchment means a sub-area of a drainage basin which contributes stormwater runoff by overland flow to a common collection point.

Cemetery means land used or intended to be used for human burial, including a chapel mausoleum or columbarium.

Certificate of Concurrency Reservation means a certificate approved by the Planning Director with or without conditions and pursuant to the terms of Art. 11, Adequate Public Facility Standards, that constitutes proof of adequate public facilities to serve the proposed development, when all conditions have been met. A subsequent application for a development permit for development for which a Certificate of Concurrency Reservation has been approved, shall be determined to have adequate public facilities as long as the development order for which the Certificate of Concurrency Reservation was approved has not expired, and if relevant, the conditions in the Reservation are complied with, and the development is not altered to increase the impact of development on public facilities.

Certificate of Occupancy or Certificate of Completion see Palm Beach County Building Codes Enforcement Administrative Code.

Certificate to Dig means a certificate that is necessary prior to:

1. Issuance of a development order for parcels identified on the map of known archaeological sites;
2. Removal of a suspension order on a site where artifacts or fossilized human remains or non-human vertebrate fossils are found during the development process; or
3. Issuance of a development order for a Type III Excavation.

Champion tree means the largest tree of a species which has been designated by the Florida Department of Agriculture and Consumer Services.

Change of Message means each text frame of an electronic message center sign shall hold constant for a minimum of two (2) seconds.

Changeable copy sign means a sign which is characterized by changeable copy letters, numbers and illustrations regardless of method of attachment.

Chief of the Fire-Rescue Department means the agency head of the Palm Beach County Fire-Rescue Department.

Chipping and mulching means an establishment using a permanent facility designed to cut tree limbs, brush or construction debris into small pieces for use as mulch.

Church or place of worship means a premises or site used primarily or exclusively for religious worship and related religious services or established place of worship, retreat site, camp, convent, seminary or similar facilities owned or operated by a tax exempt religious group for religious activities.

Closure permit means that permit required by activities which must cease operation in Zone Two pursuant to the provisions of Sec. 9.3 Wellfield Protection.

Clustered lots means residential parking lots grouped on a common street or parking tract where access is either a dead-end street, loop, or otherwise designed so as to preclude its extension for access to additional lots.

Coastal construction means the carrying out of any activity within jurisdictional boundaries specified in Sec. 9.1, Coastal Protection, to modify or improve site conditions including, but not limited to, building, clearing, filling, excavation, grading, removal or planting of vegetation, or the making of any material change in the size or use of any structure or the appearance of site conditions, or the placement of equipment or material upon such sites.

Coastal Protection Zone means an area of jurisdiction established by this section. This zone extends from the mean high water line of the Atlantic Ocean to a line twenty-five (25) feet landward of the crest of the dune or the State of Florida Coastal Construction Control Line, whichever is more landward.

Coastal high hazard area means the area subject to high velocity waters, including, but not limited to, hurricane wave wash or tsunamis. The area is designated on the FIRM as Zone VI-30.

Coastal vegetation means all native plant species indigenous to Palm Beach County's beaches and dunes. The coastal vegetation species allowed for use are provided in Appendix 9.1.

Code means code of Laws and Ordinances of Palm Beach County, Florida, including the Unified Land Development Code (ULDC).

Code Enforcement Director of PZB means the agency head of the Division of Code Enforcement.

Code inspector means any authorized agent or employees of the County whose duty is to assure code compliance.

Collector street see Street, collector

College or university means an institution of higher learning offering undergraduate or graduate degrees, and including the buildings required for educational or support services, such as classrooms, laboratories, dormitories and the like.

Colonnade means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), a covered pedestrian structure over a sidewalk that is open to the street except for supporting columns. Awnings are not considered colonnades.

Commercial agricultural development means agriculture conducted for commercial purposes within the Agricultural Production Plan Category North of the L-8 Canal and East of the North Tieback Canal, the Agricultural Reserve Plan Category (AGR), and those activities classified as special agriculture.

Commercial gain means for the purpose of the Adult Entertainment Establishment provisions of this Code, operated for pecuniary gain, which shall be presumed for any establishment which has received an occupational license. For the purpose of this Code, commercial or pecuniary gain shall not depend on actual profit or loss.

Commercial vehicle means a vehicle principally used in commerce or trade or any vehicle that is not a recreational vehicle that exceeds the following limits: rated capacity of one (1) ton; gross weight of ten thousand (10,000) pounds, including load; height exceeds nine (9) feet, including any load, bed, or box; and total vehicle length of twenty six (26) feet.Such vehicles shall include tow trucks, construction vehicles, semis and step-vans.

Communication tower means AM/FM radio, television, microwave and cellular telephone transmission towers, antennae and accessory equipment and buildings.

Communication tower, monopole. means a freestanding single cylindrical pole structure used for mounting communication antennae with a diameter of eight (8) feet or less.

Community park means those facilities generally five (5) to sixty (60) acres in size that in Palm Beach County provide active recreational facilities to population bases under 25,000 persons. Recreational facilities include play areas, small groups of fields or courts suitable for programmed activities, community centers, and adequate bicycle and automobile parking areas and pedestrian paths to serve the facility.

Community vegetable garden means a plot of land used as a vegetable garden intended to be cultivated and harvested by a group of residents of the surrounding area.

Community water system means, for the purpose of Sec. 16.2 (Water Supply Systems), a water system which serves at least fifteen (15) service connections used by year-round residents or which serves at least twenty-five (25) year round residents.

Compatibility means land uses that are congruous, similar and in harmony with one another because they do not create or foster undesirable health, safety or aesthetic effects arising from direct association of dissimilar, contradictory, incongruous, or discordant activities, including the impacts of intensity of use, traffic, hours of operation, aesthetics, noise, vibration, smoke, hazardous odors, radiation, function and other land use conditions.

Compensatory littoral zone or area means that underwater area within the water management tract or water body graded and planted as compensating for lost littoral zones from bulkheading or shading from structures over the water.

Complaining land means that land which is included in a residential district receiving sound levels above those permitted by Sec 7.8, Miscellaneous Standards.

Completely enclosed means a building separated on all sides from the adjacent open area, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows or entrances or exit doors normally provided for the accommodation of persons, goods, or vehicles.

Composting facility means a facility that is designed and used for transforming, through biological decomposition, food, yard wastes and other organic material into soil or fertilizer. This use does not include backyard composting bins serving individual families.

Comprehensive Plan means the 1989 Palm Beach County Comprehensive Plan, as amended from time to time.

Concurrency exemption certificate means a properly issued order of the Hearing Officer pursuant to the Code of Laws and Ordinances of Palm Beach County, Florida, as amended, by which a parcel or lot is exempt from the concurrency requirements of the Plan.

Concurrency exemption determination means a determination that the land in the unincorporated area is exempt from the concurrency standards of the Plan.

Concurrency Exemption Extension Certificate (Certificate of Extension) means an order issued by the Planning Director extending a concurrency exemption for a two year period.

Concurrency requirements of the Plan means the provisions in the Plan and the implementing land development regulations requiring that public facilities for traffic circulation, mass transit, sanitary sewer, potable water, recreation/open space, fire-rescue, solid waste, and drainage are available at the minimum levels of service concurrent with the impact of the Development; and, as to the applicability of expanded or more stringent traffic performance standards pursuant to State mandates under Ch. 163, Florida Statutes and F.A.C. Rule 9J-5 such requirements as set forth in the future traffic performance standards ordinance(s).

Condemnee means either:

1. The owner of a parcel of land against which an eminent domain proceeding has been initiated by a governmental authority; or
2. The owner of a parcel of land that has sold that parcel of land to a governmental authority under the threat of an eminent domain proceeding against the owner of a parcel of land, or
3. The governmental authority that has been sold a parcel of land by a land owner threatened by an eminent domain proceeding for that parcel of land.

Condemnor means either:

1. The governmental authority instituting an eminent domain proceeding against the owner of a parcel of land; or
2. The governmental authority that has been sold a parcel of land by a property owner threatened by an eminent domain proceeding for that parcel of land.

Condition of Approval means a condition imposed as part of, or associated with, the issuance of a valid local government development order.

Conditional Certificate of Concurrency Reservation means a Certificate of Concurrency Reservation considered in conjunction with a Development Agreement, public facility agreement, or other binding agreement, that is approved by the Zoning Director, when it is demonstrated that criteria established in Sec. 11.4.C.5.c, Conditional Certificate of Concurrency Reservation, is met.

Conditional use means those uses that are generally compatible with the other uses permitted in a district, but that require individual review of their location, design, configuration, intensity and density of use, structures, and may require the imposition of conditions pertinent thereto in order to ensure the appropriateness of the use at a particular location, pursuant to Articles 5 and 6.

Cone of depression means an area of reduced water levels which results from the withdrawal of groundwater from a point of collective source such as a well, wellfield, dewatering site or quarry. The areal extent and depth of the depression is a function of the hydraulic properties of the aquifer, the pumpage rates and recharge rates.

Congregate living facility means a residential land use consisting of any building or section thereof, residence, private home, boarding home, home for the aged, or any other residential structure, whether or not operated for profit, which undertakes, for a period exceeding twenty-four (24) hours, care, housing, food service, and one (1) or more personal services for persons not related to the owner or administrator by blood or marriage. In addition, the term shall include rehabilitative home care development service housing, and adult congregate living facilities for the physically impaired, mentally retarded, developmentally disabled persons, or persons sixty (60) years of age or older. The term shall not mean "nursing home," "intermediate care facility," or similar facility which provides medical care and support services to persons not capable of independent living. For the purposes of Art 10, Impact Fees the term shall include adult foster home, nursing home, adult congregate living facility, and adult day care center, as defined by Chapter 400, Fla. Stat.

Congregate living facility, Type 1 means a congregate living facility that provides a residence for no more than six (6) persons.

Congregate living facility, Type 2 means a congregate living facility that provides a residence for more than six (6) but less than fourteen (14) persons

Congregate living facility, Type 3 means a congregate living facility that provides a residence fourteen (14) or more persons.

Congregate living personal services means assistance with or supervision of essential activities of daily living such as eating, bathing, grooming, dressing, and ambulating; supervision of self-administered medication and such other similar services as may be defined by the Florida Department of Health and Rehabilitative Services.

Consecutive water system means, for the purpose of Sec. 16.2 (Water Supply Systems), a water supply which receives water from some other water supply system, serves at least 15 service connections used by year round residents or serves at least 25 year round residents.

Construction means the placement, assembly, erection, substantial repair, alteration or demolition of a building or structure on land, the placement of concrete, asphalt, similar materials on land, or grading or earthwork of land.

Construction work means any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action to buildings or land.

Contaminant means, for the purpose of Sec. 16.2 (Water Supply Systems), any physical, chemical, biological or radiological substance or matter in water.

Contiguous means, but is not limited to, lands separated only by streets, easements, pipelines, power lines, conduits, rights-of-way under ownership of the land owner of one of the subject parcels, a property owners association or a governmental agency, or a public utility. For density purposes only, contiguous means lots that share a common border. (Lots that touch point-to-point, and lots which are separated by waterways, streets or major easements are not considered contiguous for density calculations.)

Contractor's storage yard means storage and accessory office performed by building trade and service contractors on lots other than construction sites.

Control device means the element of a discharge structure which allows release of water under controlled conditions.

Control elevation means the lowest elevation at which water can be released through a control device.

Convenience store means an establishment, not exceeding three thousand five hundred (3,500) square feet of gross floor area, serving a limited market area and engaged in the retail sale or rental, from the premises, of food, beverages, and other frequently or recurrently needed items for household use, excluding gasoline sales.

Convenience store with gas sales means an establishment, not exceeding three thousand five hundred (3,500) square feet of gross floor area, serving a limited market area and primarily engaged in the retail sale or rental, from the premises, of food, beverages, and other frequently or recurrently needed items for household use, including accessory gasoline sales.

County means Palm Beach County, Florida.

County Administrator means the Palm Beach County Administrator.

County Archaeologist means staff member of or consultant to the Planning, Zoning and Building Department who shall be a qualified Archaeologist.

County Attorney means the Palm Beach County Attorney.

County Engineer means the Palm Beach County Engineer.

County Health Director means the agency head of the Palm Beach County Public Health Unit (PBCPHU).

County Standards means the minimum standards, specifications, and details for design and construction of streets and other infrastructure improvements, as promulgated by the County Engineer pursuant to Resolution R-90-740 of the Board of County Commissioners as may be amended. Said standards include, but are not limited to those compiled in the most current edition of the Palm Beach County Land Development Design Standards Manual.

Covenant means a recordable instrument that runs with the land, binds the fee simple owner, heirs, successors, and assigns, and is recorded. It may include recorded Development Agreements or other agreements. Covenants may include Palm Beach County as a party or intended beneficiary, shall recite the benefit intended, and shall include any terms or conditions under which it may be released.

Credit means for the purposes of Art. 10, Impact Fees, a reduction in the particular impact fee based on: (1) previous payments for which no benefit was received and future payments of the development toward the capital facilities for which the impact fee is assessed; (2) a reduction of impact due to: redevelopment of existing square footage; other assessments for the same capital facilities; in-kind contributions; or, in the case of park impact fees, alternative municipal provision of like capital facilities, or proximity to the beach.

Crest of the dune means the highest point in elevation of the dune.

Cross-connection means, for the purpose of Sec. 16.2 (Water Supply Systems), any physical arrangement whereby any drinking water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains or may contain contaminated water, sewage or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the drinking water supply as the result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or changeable devices and other temporary or permanent devices through which or because of which backflow could occur are considered to be cross-connections.

Cul-de-sac means a dead-end street terminating in a circular vehicular turn-around.

Data and information processing means the use of an establishment for business offices of an industrial nature, including corporate centers, mail processing and telemarketing centers. Such uses are not frequented by the general public.

Day care center, general means an establishment, licensed by the Department of Health and Rehabilitative Services, which provides daytime or nighttime care, protection for twenty-one (21) or more children or adults for a period of less than twenty-four (24) hours per day on a regular basis.

Day care center, limited means an establishment, licensed by the Department of Health and Rehabilitative Services, which provides daytime care, protection and supervision for six (6) to twenty (20) children or three (3) to twenty adults for a period of less than thirteen (13) hours per day on a regular basis. Limited day care centers do not provide nighttime care.

Day labor employment service means an establishment engaged in providing temporary day labor services for the construction or industrial trades.

DBA means the total sound level of all noise as measured with a sound level meter using A- Weighting Network. The unit is decibel based on a reference sound pressure of .0002 micro-bars.

Dead-end street see Street, dead-end.

Decibel means a unit of sound pressure level, abbreviated as Db

Decision/order means an administrative act of any Board, unless otherwise noted, constituting final agency action consistent with their powers as described herein.

Density means the ratio of the number of dwelling units per acre of land.

Density bonus means density afforded by special density programs such as Transfer of Development Rights, Traditional Neighborhood Development and Voluntary Density Bonus Program which is an increase in the residential density of development that the County permits on a parcel of land over and above the maximum density PUD permitted by the 1989 Palm Beach Comprehensive Plan as amended for the future land use category in which it is located.

Density, entitlement means the amount of density granted by the County which permits use of land until concurrency provisions can be satisfied as shown in figure 2 of the Land Use Element of the 1989 Comprehensive Plan, as amended.

Density, maximum level means the amount of density allowed by the 1989 Comprehensive Plan, as amended, with a planned development as shown in figure 2 in the Land Use Element.

Density, minimum level means the amount of minimum density that must be attained when land is developed pursuant to the 1989 Comprehensive Plan, as amended, as shown in figure 2 in the Land Use Element.

Density, standard means the amount of density allowed by the 1989 Comprehensive Plan, as amended, without a planned development as shown in figure 2 in the Land Use Element.

Department means Palm Beach County Department of Environmental Resources Management or the Palm Beach County Department of Planning, Zoning, and Building or other departments of the County, or an entity of any municipality in Palm Beach County which has been assigned the responsibility of administering and enforcing this Code.

Detention means the collection and temporary storage of stormwater runoff for the purpose of treatment and/or discharge rate control with subsequent gradual release directly to surface waters.

Developer means any person, including a governmental agency, undertaking any development.

Developer's agreement means an agreement entered into among Palm Beach County, a service provider(s) and a person associated with the development of land pursuant to the terms of this Code.

Developer's engineer means a single engineering firm or a professional engineer registered in Florida, and engaged by the developer to coordinate the design and monitor the construction of the work required under Art. 8, Subdivision, Platting and Required Improvements.

Development means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of land, or the dividing of land into two (2) or more parcels.

Development means, for the purpose of Art. 10, Impact Fees, as the context indicates, either the carrying on of construction or any physical alteration of a building or structure; the result of such activity; a legally divisible parcel of land developed under a common plan; or the change in any use of a structure or land that increases the impact on capital facilities for which the particular impact fee is assessed. It includes the placement of a mobile home for dwelling purposes.

Development means, for the purpose of archaeological preservation, the definition in Sec. 380.04, Fla. Stat. as well as site preparation work consisting of excavation, earth moving, and the like. This definition shall not include: (1) the dividing of land into two or more parcels.

Development means, for the purpose of Article 9, Environmental Standards, and Article 11, Adequate Public Facilities Standards, the definition in Sec. 380.04, Fla Stat., except that it shall not include the following items listed therein:

1. Demolition of a structure;
2. Deposit of refuse, solid or liquid waste,or fill on the Parcel unless the Valid Local Government Development Order is exclusively and specifically for such;
3. Site preparation work consisting of excavation, earth moving, and the like unless tied to a contract for required improvements or backed by surety, or as part of a local development order; and
4. Lot clearing.

Development agreement means an agreement entered into among Palm Beach County, a service provider and a person associated with the development of land pursuant to the terms of this Code.

Development of regional impact means a specific type of development as defined in Sec. 380.06, Fla. Stat.

Development order means any order granting or granting with conditions an application for development permit.

Development order, final means a development order for Site Plan/Final Subdivision Plan, or a building permit.

Development order, preliminary means a development order for an amendment to the Official Zoning Map, a planned development, a conditional use, a special use, a variance, a coastal protection permit, a flood prevention permit, an environmentally sensitive lands permit, a wetlands permit, a wellfield protection permit, or a sea turtle protection permit.

Development permit means any amendment to the text of this Code or Official Zoning Map (rezone), conditional use, special use, planned development, Site Plan/Final Subdivision Plan, subdivision, building permit, variance, special exception, certificate of conformity or any other official action of Palm Beach County having the effect of permitting the development of land or the specific use of land.

Dewatered Domestic Wastewater Residuals means the solid, semisolid or liquid residue removed during the treatment of wastewater which is more than twelve percent (12%) or greater dry solids by weight. Not included is the treated effluent or reclaimed water from a domestic wastewater treatment plant.

Diameter at breast height (dbh) means the diameter of a tree trunk measured at a point four and one half (4.5) feet above the ground.

Directional sign means any sign giving directions, instructions, or facility information and which may contain the name or logo of an establishment but no advertising copy.

Director of Environment Resource Management (ERM) means the agency head of ERM.

Director of Land Development Division of DEPW means the division head of the Land Development Division of DEPW.

Director of Parks and Recreation means the agency head of the Palm Beach County Parks and Recreation Department.

Director of Property and Real Estate Management (PREM) means the agency head of PREM.

Director of the Survey Section of DEPW means the division head of Survey Section of DEPW.

Director of Water Utilities means the agency head of the Palm Beach County Water Utilities Department.

Discharge structure means a structural device, constructed or fabricated from durable material such as concrete, metal, or decay-resistant timber, through which water is released to surface water from detention.

Dispatching office means an establishment principally involved in providing services off-site to households and businesses using land-based communication. Typical uses include janitorial services, pest control services, and taxi limousine, and ambulance services.

Disposition, off-site means the off-premises transportation of excavated material.

Disposition, on-site means the on-premise use of extractive or excavated material.

Distribution box means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), a receptacle placed between a septic tank or other treatment receptacle and a drainfield to equalize the flow through two or more lines of distribution pipe.

Distribution pipe means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), an open jointed or perforated pipe installed in a drainfield for dispersion of the effluent from a septic tank or other treatment unit.

District means any certain described zoning district of Palm Beach County to which these regulations apply and within which the zoning regulations are uniform.

District park means those Palm Beach County facilities generally between sixty (60) and two hundred and fifty (250) acres in size that primarily provide active recreational facilities and to a lesser degree some passive recreational facilities, where possible. Recreational facilities include special facilities such as competition pools, golf courses, or boat ramps and marinas, large groups of lighted fields or courts suitable for scheduled league activities, and adequate support facilities with bicycle and automobile parking areas and pedestrian paths to accommodate those using the park.

Disturbed excavated area means the total area altered by excavation activities.

Dock, private means a structure built on or over the water which is designed or used to provide no more than ten (10) boat slips, and anchorage for and access to one (1) or more boats belonging to the property owner. Necessary services such as water, and other utilities are considered a part of a dock;which does not provide a fuel facility, however, no cooking, sleeping or business activity shall be permitted.

Domestic sewage means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), wastewater normally conveyed by drains and sewers, including bath, toilet wastes, laundry and kitchen wastes from residential use and waste from other household plumbing fixtures.

Double-faced sign means a sign with two (2) faces which are usually parallel and back-to-back.

Drainage basin means a sub-area of a watershed which contributes stormwater runoff to a watercourse tributary to the main receiving water.

Drain trenches means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), a drainfield installation in which the effluent from the septic tank or other treatment receptacle is distributed in separate trenches.

Drainage easement see Easement, drainage.

Drainfield invert means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), the inside bottom of the distribution pipe at the lowest point in a drainfield.

Drainfield system means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), a subsurface system designed to receive the effluent from a septic tank or other treatment receptacle for treatment and absorption through the soil. The system also includes distribution box, header pipe and automatic dosing device.

Dripline means an imaginary vertical line extending from the outermost circumference of the branches of a tree to the ground.

Drive-thru means any place of business which serves, sells or otherwise makes available its services or products to patrons situated in automobiles for their off-premise use or consumption.

Driveway, shared means a driveway that serves more than one (1) dwelling unit.

Drought-tolerant tree means a tree, excluding prohibited or controlled species, classified as very or moderately drought tolerant in the SFWMD Xeriscape Plant Guide.

Dry detention/retention means detention or retention of water in a storage facility which is designed, constructed, and operated to limit the duration of ponding within the facility so as to maintain a normally dry bottom between rainfall events.

Dune means a hill or ridge of windblown sand and marine deposits lying landward of, and adjacent to, the beach which is formed by natural and artificial processes.

Dune profile means the cross-sectional configuration of the dune.

Dwelling unit means one or more rooms designed, occupied or intended for occupancy as separate living quarters, with only one (1) kitchen plus sleeping and sanitary facilities provided within the unit, for the exclusive use of a single family maintaining a household. Specialized residences, such as accessory apartments for the elderly or handicapped, congregate living facility quarters, groom's quarters, or migrant labor quarters shall not be considered "dwelling units" for the purpose of applying restriction on density contained in the Palm Beach County Comprehensive Plan or this Code.

Easement means any strip of land created by a subdivider or granted by the owner, for public or private access utilities, drainage, sanitation or other specified uses having limitations, the title to which shall remain in the name of the land owner, subject to the right of use designated in the reservation of the servitude.

Easement, drainage means an easement establishing rights to collect, drain or convey surface water by means of natural or man-made facilities, including, but not limited to water bodies, water courses, canals, ditches, swales, storm sewers and overland flow. It also includes any fee interest of a governmental entity in land to collect, drain, or convey water.

Easement, lake maintenance means an expressed easement, created by plat dedication or other instrument of record, establishing access and use rights on or to the periphery of a water management tract for purposes of construction, maintenance, and repair of wet detention/retention facilities and appurtenant structures therein.

Easement, limited access means an easement established adjacent to a street for the purpose of prohibiting vehicular access to the street from abutting property except at those locations specifically authorized by the Board of County Commissioners.

Easement, quasi-public means an easement granted to a property owners association in which the County or public have some beneficial interest.

Easement, public means an easement granted to a governmental entity, public agency, a utility, or the public.

Easement, utility means an easement established for the purpose of the installation, operation, repair, or maintenance of facilities and equipment used to provide utility services.

Easement holder or beneficiary means the grantee of an easement or persons directly benefitting from the existence of the easement.

Ecosystem means an assemblage of living organisms (plants, animals, microorganisms, etc.) and nonliving components (soil, water, air, etc.) that functions as a dynamic whole through which organized energy flows.

Educational Institution means for the purpose of the Adult Entertainment Establishment provisions of this Code, a premises or site within a municipality or within the unincorporated area of the County upon which there is a governmentally licensed child care facility for six (6) or more children or elementary or secondary (k-12) school, attended in whole or in part by persons under eighteen (18) years of age.

Edge area means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District, TND), a continuous open area that defines the edge of a TND and buffers development between neighborhoods and outside of the TND.

Effective capacity means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), the volume of a treatment receptacle contained below the liquid level line.

Effective depth means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), the depth of a treatment receptacle measured from the inside bottom up to the liquid level.

Effective soil depth means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), the depth of satisfactory (slight or moderate limited) soil material lying above a non-pervious soil layer such as heavy clays, hardpan, muck or bedrock. Satisfactory soils do not impede the movement of air and water or the growth of plant roots.

Egg means, for the purpose of Article 9, Environmental Standards, a shelled reproductive body produced by sea turtles.

Elderly person has the meaning given to it in Sec. 760.22(5)(a), Fla. Stat., as amended.

Electrical power facility means a principal use of property for an electrical generation, , or transmission voltage switching station.

Electrical sign See illuminated sign.

Electronic Message Center Sign means any sign that uses changing lights or an electronic medium to form a sign message or messages wherein the sequence of the messages and the rate of change is electronically programmed and can be modified by electronic processes.

Elevated building means a non-basement building that has its lowest floor elevated above ground level by means of fill, solid foundation perimeter wall pilings, columns, posts or piers, shear walls, or breakaway walls.

Emergency work means work made necessary to restore land to a safe condition following a calamity, or work required to protect persons or land from imminent exposure to danger.

Emergency means any unusual incident which results in immediate danger to the health, safety, welfare or resources of the residents of the County, including damages to, or erosion of, any shoreline resulting from a hurricane, storm, or other such violent disturbance.

Eminent domain proceedings mean either (1) those formal court initiated civil actions to acquire fee simple, easement, or right-of-way interest in land for governmental purposes, or (2) a voluntary conveyance of such in lieu of formal court initiated action.

Employee means for the purpose of the Adult Entertainment Establishment provisions of this Code, any person who works, performs or exposes his/her specified anatomical areas in an establishment, irrespective of whether said person is paid a salary or wages by the owner or manager of the business, establishment, or premises. "Employee" shall include any person who pays any form of consideration to an owner or manager of an establishment, for the privilege to work performing or exposing his/her specified anatomical areas within the establishment.

Employment center means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), an optional sector area land use zone intended to provide an appropriate location for workplace light industrial and professional office land uses that are more intensive in nature than workplace uses. Employment center uses are based upon a demonstrated need for employment within a sector area and are approved by the Board of County Commissioners.

Encroachment, vehicular means any protrusion of a motor vehicle outside of the boundaries of a vehicular use area into a landscape or other area.

Encumber means to reserve or earmark funds for a specific expenditure or an identified development.

Endangered, threatened, rare, and species of special concern means any species listed as endangered, threatened, rare, or of special concern by one (1) or more of the following agencies:

1. U.S. Fish and Wildlife Service;
2. Florida Game and Fresh Water Fish Commission;
3. Florida Committee on Rare and Endangered Plants and Animals;
4. Florida Department of Agriculture and Consumer Services or
5. Treasure Coast Regional Planning Council.

Enforcement Board means the Palm Beach County Code Enforcement Board.

Enfront means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), to face across a street.

Engineer means a person registered as a professional engineer in the State of Florida.

Enhancement means a human activity which increases one or more natural functions of an existing wetland.

Enlargement or to enlarge means an addition to the floor area of an existing building, an increase in the size of any other structure, an addition of a use or an increase in that portion of a tract of land occupied by an approved use.

Entertainment, indoor means an establishment offering entertainment or games of skill to the general public for a fee or charge and wholly enclosed in a building, excluding fitness centers and gun clubs. Typical uses include bowling alleys, bingo parlors, movie theaters, pool halls, billiard parlors and video game arcades.

Entertainment, outdoor means an establishment offering entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open, excluding golf courses and public parks. Typical uses of an athletic nature include archery ranges, athletic fields, batting cages, golf driving ranges and tennis courts. Other uses include go-cart tracks, miniature golf courses, jet skiing, swimming pools, tennis courts and wind surfing but excluding gun clubs.

Entrance wall sign means an identification structure located along the main access to county approved subdivision or a development. The only advertising on the structure shall be the subdivision or development name and logo.

Environmental Control Hearing Board means a board appointed by the Board of County Commissioners pursuant to Chapter 77-616, Special Act, Laws of Florida, as amended.

Environmental Control Officer means the person appointed by the Environmental Control Board under Chapter 77-616, Special Acts, Laws of Florida, as amended.

Environmental Ordinance Appeals Board means that Board designated by the Board of County Commissioners of Palm Beach County to hear and render decisions on appeals of final administrative determinations, and to conduct hearings and render decisions as required under applicable County environmental ordinances.

Environmentally sensitive lands mean ecological sites (ecosites), other than wetlands, that are designated in the Inventory of Native Ecosystems in Palm Beach County and on its accompanying aerial photographs as "A" quality, representing high-quality native Florida upland ecosystems. These sites are indicated on the aerial photographs (received on May 30, 1989) that are on file at ERM and are incorporated herein by reference.

Equestrian arena means an establishment engaged in commercial spectator activities involving horse racing or equestrian shows, but excluding any establishment engaged in pari-mutual betting.

Establishment The site or premises on which the business is located, including the interior of the business, or portion thereof, upon which activities or operations are being conducted for commercial gain.

Establishment means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), a single structure or a group of structures other than a single-family residence on one (1) or more parcels of land with common access, parking, drainage facilities and/or water supply.

Estate kitchen means an accessory use which is physically integrated within the main residence.

Excavate or excavation means any act by which material is cut into, dug, quarried, uncovered, removed, displaced, related or otherwise deliberately disturbed, including the conditions resulting therefrom. Excavation excludes agricultural plowing and site grading, demucking and canal dredging in preparation for construction.

Excavation, agricultural means excavation undertaken to support bona fide agricultural production operations including but not limited to the creation of canal laterals and roads, but excluding customary agricultural activities such as plowing and maintenance of canal laterals.

Excavation, commercial See excavation, Type III.

Excavation, Type I (A) means excavation necessary for the construction of a single family dwelling as permitted by right in any zoning district with a lot area greater than one (1.0) acre.

Excavation, Type I (B) means excavation necessary for the creation of a pond which shall be accessory to a single family dwelling permitted by right in any zoning district on a lot greater than two and one half (2.5) acres.

Excavation, Type II means excavation necessary to implement a final site development plan.

Excavation, Type III means the mining, quarrying, developing of mines for exploration of nonmetallic minerals, except fuels, or other extractive materials primarily for commercial purposes, including but not limited to treating, crushing, or processing the material or off-site disposition for fill.

Excused absence means an absence by a member of an advisory board, or administrative or decisionmaking body, due to illness, absence from Palm Beach County, or personal hardship, if approved by official action of the advisory board, or administrative or decisionmaking body.

Executive Director of Planning, Zoning and Building Department means the agency head of the Palm Beach County Planning, Zoning and Building Department.

Exfiltration system means any gallery, perforated or "leaky" pipe or similarly designed structure which is used to dispose of untreated stormwater by allowing the routed water to percolate by subsurface discharge directly or indirectly into the groundwater.

Expenditure means the irrevocable contractual obligation which requires the remittance of money by the applicant for services, goods, facilities, or fixtures, for the project; the post remittance of money for such.

External trip means any trip that either has its origin from or its destination to the development site and which impacts the major road network system.

FAC means the Florida Administrative Code.

Family means either a single person occupying a dwelling unit and maintaining a household, including not more than one (1) boarder, roomer, or lodger as herein described; or two (2) or more persons related by blood, marriage, or adoption occupying a dwelling, living together and maintaining a common household, including not more than one (1) such boarder, roomer, or lodger; or not more than four (4) unrelated persons occupying a dwelling, living together and maintaining a non-profit housekeeping unit as distinguished from a group occupying a boarding or lodging house, hotel, club or similar dwelling for group use. A common household shall be deemed to exist if all members thereof have access to all parts of the dwelling.

Farm residence means a dwelling unit, other than a mobile home, located on a parcel of land used for a bona fide agricultural use and occupied by the owner or operator of the farm operation.

Farm structure means any building or structure used for agricultural purposes excluding those used for residences.

Farm workers quarters mean one (1) or more residential structures located on the site of a bona fide agricultural use and occupied by year-round farm workers employed by the owner of the farm.

Fence means an artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

Feepayer means the person paying the impact fee associated with a building permit or change in use, pursuant to Art. 10, Impact Fees, or the feepayer's agent.

Filling means the placement of any material in, on, or over a jurisdictional wetland.

Final site plan means the most recent site plan approved by the Development Review Committee.

Final subdivision plan means the most recent subdivision plan approved by the Development Review Committee.

Financial institution means an establishment engaged in deposit banking. Typical uses include commercial banks, savings institutions, and credit unions, including outdoor automated teller machine and drive-thru facilities.

Fire-rescue facilities mean the planning, engineering for, preparation of acquisition documents for, acquisition of land for, or the construction of fire-rescue facilities and the purchase of equipment necessary to meet the LOS for fire-rescue facilities.

Firewall means a wall of incombustible construction which subdivides a building or separates buildings to restrict the spread of fire and which starts at the foundation and extends continuously through all stories to and above the roof, except where the roof is of fireproof or fire-resistive construction and the wall is carried up tightly against the underside of the roof slab, pursuant to the Palm Beach County Building Code.

Fitness center means an enclosed building or structure generally containing multi-use facilities for conducting, including but not limited to, the following recreational activities: aerobic exercises, weight lifting, running, swimming, racquetball, handball, and squash. A fitness center may also include the following customary accessory activities as long as they are intended for the use of the members of the center and not for the general public: babysitting service, bathhouse, food service, and the serving of alcoholic beverages consumed on the premises. This use also includes dance studios and karate schools.

Fixed mechanical equipment means mechanical equipment, such as an air conditioning unit, water cooling tower, swimming pool pump, irrigation pump, well water pump, fan, power generator or other similar power source equipment, permanently affixed to land, as distinguished from temporary, portable, non-fixed mechanical equipment.

Fixed projecting sign means any sign which is attached to a building and extends beyond the wall of the building to which it is attached.

Flag means any freely waving fabric or material containing distinctive colors, patterns, or symbols.

Flea market, enclosed means retail sales within a building permanently enclosed by walls and roof in which floor space is rented to individual merchants to display and sell goods.

Flea market, open means an outdoor retail sales area in which parcels of land are rented to individual merchants to display and sell goods.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally day land areas from the overflow of inland or tidal waters; or the unusual and rapid accumulation or runoff of surface waters from any source. Terms associated with flooding include:

1. **Frequent**, which means flooding which occurs more than once every two (2) years on the average;
2. **Ten (10) year flood elevation**, which means that flood elevation which has a ten (10) in one hundred (100) probability of being equaled or exceeded in any calendar year.

Flood Hazard Boundary Map (FHBM) means the official map of Palm Beach County, produced by the Federal Emergency Management Agency or by Palm Beach County, where the boundaries of the areas of special flood hazard have been designated as Zone A.

Floodplain means the land area adjacent to the normal limits of a watercourse or water body which is inundated during a flood event of specified magnitude or return period.

Flood Insurance Study means the official report provided by the Federal Emergency Management Agency that contains flood profiles, as well as the Flood Hazard Boundary Map and the water surface elevation of the base flood.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floor means the top surface of an enclosed area in a building (including basement) i.e., top of slab in concrete construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Floor area means the gross horizontal square footage of all floors of a building measured from the exterior face of exterior walls or other type of enclosure, or from the centerline of a wall separating two buildings.

Floor area ratio (FAR) means the ratio of the gross floor area of all structures on a lot to the lot area, excluding vertical core circulation areas for multistory structures.

Floor area, gross leasable means that portion of the total floor area designed and used for tenant occupancy and exclusive use, including any basements, mezzanines or upper floors but excluding stairwells, elevator shafts, equipment and utility rooms. The area shall be expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.

Floor area, total leasable see Floor area, gross leasable.

Food service means at least one (1) full meal being provided to each resident, every day, in a central dining area.

Footcandle means a unit of illumination that is equal to one (1) lumen distributed evenly over a one (1) square foot area.

Fossil means a remnant or trace of an organism of a past geological age.

Freestanding sign means a detached sign which shall include any sign supported by uprights or braces placed upon or in or supported by the ground and not attached to any building.

Freeze damaged mangroves means mangroves that have suffered freeze damage but evidence of life still remains, such as green leaves. These mangroves would be characterized by having dead material on the ends of some of their branches or dead material ion one side of the tree. In all cases freeze damaged mangroves will appear to still have a percentage of live material in their composition.

Freeze killed mangroves means mangroves that have suffered severe freeze damage, such that by October 1, following the last freeze, they show no sign of recuperation such as new leaf or branch growth or any evidence of live cambium.

Front facade means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), the wall of a building parallel with and facing a frontage line.

Fruit and vegetable market means an establishment engaged in the retail sale of fruits, vegetables and other agricultural food products.

Functions means the roles wetlands serve, including but not limited to flood storage, flood conveyance, ground water recharge and discharge, erosion control, wave attenuation, water quality enhancement and protection, nutrient removal, food chain support, wildlife habitat, breeding and habitat grounds for fishery species, and recreational values.

Funeral home or crematory means an establishment engaged in preparing the human deceased for burial and arranging and managing funerals.

Garage, private see Carport/Private garage.

Garage sale means the casual sale of household articles by occupants of private households.

Garden trash means waste consisting or accumulation of leaves, grass, shrubbery, vines and trees, or parts thereof.

Gas and fuel, wholesale means the use of a site for bulk storage and wholesale distribution of two thousand five hundred (2,500) gallons or more of flammable liquid, or two thousand (2,000) gallons water capacity or more of flammable gas, excluding below-ground storage which is clearly accessory to the principal use on the site.

Generic substance list means those general categories of substances set forth in Appendix 9.4. Wellfield Protection attached hereto and incorporated herein. The generic substance list is provided for informational purposes and may be revised from time to time by the Department without further action by the Board of County Commissioners.

Glare means a discomforting condition which occurs when the brightness of a light contrasts with a low brightness background and makes it difficult for the human eye to adjust.

Golf course means a facility providing a private or public golf recreation area designed for executive or regulation play along with accessory golf support facilities, but excluding miniature golf.

Government services means buildings or facilities owned or operated by a government entity and providing services for the public, excluding utility and recreational services. Typical uses include administrative offices of government agencies, public libraries, and police and fire stations.

Grade, finished, for the purpose of determining height, shall mean:

1. For parcels whose lot line adjoin one (1) street only, finished grade is the average of the natural grade measured from the center of the front property line to the center of the rear lot line.
2. For parcels whose lot line adjoins more than street finished grade is the average natural grade of all measurement lines, measured from the property line(s) adjoining the street(s) to the opposite property line(s).

Grain milling or processing means facilities for processing and storing grain or other nonperishable crops. Typical uses include cotton gins and grain mills.

Grassed parking means that portion of a development's required off-street parking requirement that meets the standards of Sec. 7.2. (Off-street parking regulations).

Grease trap means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), a watertight receptacle or reservoir receiving wastewater from a kitchen or other source containing grease.

Greenhouse means an accessory structure consisting of a glass or hard plastic enclosure used to protect plants from insects, heat, cold and exposure to the sun.

Greenway means multi-purpose open space corridors of private and public lands, which may be located within a public right-of-way, an edge area, a landscape buffer, or an easement, and may contain pedestrian paths, bicycle facilities, jogging paths, equestrian paths and fitness trails. Greenways are employed to provide usable open space close to residential areas, and provide alternative access ways connecting a variety of uses, such as residential areas, parks, school, cultural facilities and employment centers. Greenways also provide aquifer recharge, preserve unique features or historic or archaeological sites, and can link urban rural areas.

Groom's quarters means on-site living quarters for persons responsible for grooming and caring for horses boarded at the stable.

Gross land area means the total area, including all public and private areas within the legal boundaries of a particular parcel of land or project.

Ground cover means plants, other than turf grass, normally reaching an average maximum height of not more than twenty-four inches (24") at maturity.

Ground floor means a level of building, the floor of which is located not more than two (2) feet below nor more than six (6) feet above finished grade.

Ground sign see Freestanding sign.

Ground water means water beneath the surface of the ground within a zone of saturation where such water is at or above atmospheric pressure, whether within the voids between soil particles or within solution channels or fractures in rock.

Ground-level barrier means, for the purposes of Article 9, Environmental Standards, any natural or artificial structure rising above the ground which prevents beachfront lighting from shining directly onto the beach-dune system.

Groves/row crops means the cultivation of fruits and vegetables for bona-fide agricultural purposes.

Grubbing means removal of vegetation from land by means of digging, raking, dragging or otherwise disturbing the roots of the vegetation and the soil in which roots are located.

Guest cottage means accessory sleeping quarters provided for non-paying guests by the occupant of a principal single family dwelling unit. A kitchen is not permitted in a guest cottage.

Gun club, enclosed means an indoor facility used for the discharge of firearms or projectiles at targets.

Gun club, open means an outdoor facility used for the discharge of firearms or projectiles at targets.

Guaranty means sufficient funds over which the County has control irrevocably committed by written instrument to secure complete performance of a contract for required improvements, condition of a Development Order or Road Agreement.

Habitable room means a room occupied by one (1) or more persons for living, eating, sleeping, or working purposes. It does not include toilets, laundries, serving and storage pantries, corridors, cellars, and spaces that are not used frequently or during extended periods.

Handicapped person has the meaning given in Sec. 393.063(6) and Sec. 760.22(5)(a)(6) Fla. Stat.

Handicapped spaces means parking spaces designed, marked and reserved for exclusive use by persons properly registered as handicapped.

Hatchling means any specimen of sea turtle, within or outside of a nest, which has recently hatched from an egg.

Hatracking means the severe cutting back of branches, making internodal cuts to lateral limbs leaving branch stubs.

Health hazard means, for the purpose of Sec. 16.2 (Water Supply Systems), any condition, device, or practice in a water supply system or its operation which creates or may create an imminent or substantial danger to the health and well-being of the water consumer.

Heated or cooled area means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), that enclosed area of a dwelling unit, excluding the garage, carport, open or screened patios or decks, which is heated or cooled by mechanical systems designed to control or modify indoor temperature.

Heavy industry means an establishment engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes utilizing flammable, hazardous or explosive materials, or processes which potentially involve hazardous or commonly recognized offensive conditions. Typical uses include manufacturing and warehousing of chemicals, dry ice, fertilizers, fireworks and explosives, pulp and paper products, and radioactive materials; fat rendering plants; slaughterhouses and tanneries; steel works; and petroleum refineries.

Hedge means a landscape barrier consisting of a continuous, dense planting of shrubs. Certain species of trees (wax myrtle, sea grape, ficus) can be considered shrubs if maintained to comply with the following criteria:

1. Provides a dense, solid opaque screen for the entire height; and
2. Is planted 24" inches on center.

Helipad means an area designated for the landing and departure of helicopters.

Heliport means an area designated for the landing or departure of helicopters, and including any or all of the area or buildings which are appropriate to accomplish these functions, including refueling.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Home instruction, inside means teaching which takes place inside the dwelling unit of the instructor. Typical instruction includes music lessons and academic tutoring.

Home instruction, outside means teaching which takes place outside the dwelling unit, on the property of the instructor. This type of instruction is limited to subject matter which necessitates outside instruction. Typical instruction includes tennis, swimming lessons, dog training and equestrian lessons.

Home occupation means a business, profession, occupation or trade conducted within a dwelling unit for gain or support by a resident of the dwelling unit pursuant to the limits of this code.

Hospital or medical center means a facility licensed by the State of Florida which maintains and operates organized facilities for medical or surgical diagnosis, care, including overnight and outpatient care, and treatment of human illness. A hospital is distinguished from a medical center by the provision of surgical facilities.

Hotel or motel means a commercial establishment used, maintained or advertised as a place where sleeping accommodations are supplied for short term rent to tenants, in which rooms are furnished for the accommodation of such guests, which may have as an accessory use one or more dining rooms. Typical uses include hotels, motels, single room occupancy (SROs) and rooming and boarding houses.

Identification sign means a sign, other than a bulletin board sign, or nameplate sign, indicating the name of the primary use, the name or address of a building, or the name of the management thereof.

Illuminated sign means a sign in which a source of light is used in order to make the message readable and shall include internally and externally lighted signs. Illuminated signs do not include signs that flash time and temperature.

Impact Fee Coordinator means the person responsible for the administration of the County's impact fee program.

Incinerator means a permanent facility operated alone or in conjunction with a resource recovery facility or landfill for the purpose of burning biohazardous waste, solid waste or trash to ash as regulated by the Environmental Control Board under Ordinances 92-22 and 92-23.

Incompatibility of land uses means the undesirable health and safety effects arising from the proximity or direct association of contradictory, incongruous, or discordant land uses or activities, including aesthetics, noise, vibration, smoke, hazardous odors, radiations and other land use and environmental conditions such as the intensity, character, impact or amount of traffic.

Inconsistent use means for the purpose of Sec. 6.5, Property Development Regulations, any and all construction not related to the purpose of the easement, and any and all landscaping other than turf grass (seed/sod).

Independent calculation/independent analysis means the data, analysis and report prepared by a fee-payer for the purpose of establishing a different impact fee amount than the one set forth in Art. 10.

Industrial equipment/heavy machinery means farm tractors and implements, bulldozers, drag lines, cranes, derricks, heavy earth moving equipment normally used in farming, excavation or heavy construction activities. For the purposes of this definition, all machinery that uses steel tracks for traction shall also be considered heavy machinery.

Industrial waste means waste generated from commercial and industrial operations, other than agricultural, including but not limited to the processing, manufacturing, packaging, repair, maintenance or production of marketable goods. Construction and demolition debris shall be considered industrial waste.

Industrial wastewater means, wastewater generated by commercial or industrial establishments as a result of manufacturing, preparation, processing, or handling of materials, chemicals and/or food products, and from cleaning or washing operations. Laundromats, food service establishments, bakeries and car wash facilities are specifically included in this definition.

Ingress means entry.

In-kind contribution means the conveyance, dedication, construction, placement, delivery or remittance of land, buildings, improvements, fixtures, personal property or money to Palm Beach County or the Palm Beach County School Board for capital facilities for which impact fees are levied pursuant to Art. 10.

Instructional sign means a sign conveying instructions with respect to the premises on which it is maintained such as the entrance or exit of a parking area, a no trespassing sign, a danger sign, and similar signs.

Intensity means the number of square feet per acre and specific land use for non-residential uses.

Intensity entitlement means the amount of intensity granted by the County if a parcel cannot satisfy concurrency as stated in the Land Use element of the 1989 Comprehensive Plan, as amended.

Inundation means the presence of water, in motion or standing, of sufficient depth to damage property due to the mere presence of water or the deposition of silt or which may be a nuisance, hazard or health problem.

Invasive non-native plant species means any plant not indigenous to this state, which exhibits, or has the potential to exhibit, uncontrolled growth and invasion or alteration of the natural qualities of any native habitat. A list of invasive, non-native plant species shall be maintained by the Department of Environmental Resource Management.

Inventory of Native Ecosystems in Palm Beach County means reports and annotated aerials produced during the study with this title, which was conducted by consultants under contract to Palm Beach County.

Irrigation system means a system of pipes or other conduits designed to transport and distribute water to plants.

Jurisdictional boundaries mean the area between the mean high water line of the Atlantic Ocean as well as the Jupiter, Lake Worth, South Lake Worth, and Boca Raton Inlets and a line 500 feet inland for structures greater than two stories tall or a line 300 feet inland for all other structures.

Kennel, commercial means a commercial establishment, including any building or land used, for the raising, boarding, breeding, sale or grooming of such domesticated animals as dogs and cats, not necessarily owned by the occupants of the premises, for profit.

Kennel, private means any building used, designed or arranged to facilitate the non-commercial care of dogs cats owned by the occupants of the premises.

Kitchen means that portion of a structure used or designed to be used for the preparation of food, and including or designed to include a stove, refrigerator and sink.

Kitchen, estate means an accessory kitchen physically integrated within the principal dwelling.

Laboratory means a designated area or areas used for testing, research, experimentation, quality control, or prototype construction, but not used for repair or maintenance activities (excluding laboratory equipment), the manufacturing of products for sale, or pilot plant testing.

Laboratory, industrial research means an establishment engaged in research of an industrial or scientific nature, other than medical testing and analysis and routine product testing, which is offered as a service or which is conducted by and for a private profit-oriented firm.

Lake finger means that portion of a dead-end water body which is less than fifty (50) feet in width and longer than one and one-half (1/2) times its width, as measured from the point at which the dead-end water body is less than fifty (50) feet wide.

Lake maintenance easement see Easement, lake maintenance.

Land means the earth, water, and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

Land application means the application or disposal of effluent or sludge on, above or into the surface of the ground through spray irrigation, land spreading, of other methods.

Land development permit means, for the purposes of Art. 8, the development permit issued by the County authorizing construction of required improvements for a subdivision.

Land development regulations mean ordinances enacted by Palm Beach County for the regulation of any aspect of development and includes any zoning, rezoning, subdivision, health, environmental, or sign regulations controlling the development of land.

Land use activity generating traffic means the carrying out of any building activity or the making of any material change in the use or appearance of any structure or land that attracts or produces vehicular trips over and above that produced by the existing use of the land.

Landscape architect means any person authorized to prepare landscape plans or drawings by Chapter 481, Part II (Landscape Architecture) Fla. Stat.

Landscape barrier means a landscape design feature constructed within a landscape buffer that is intended to channel pedestrian movement and impede vehicular access and to provide an abrupt transition between otherwise incompatible uses. A landscape barrier may consist of living plants (such as a hedge), structures (such as a wall or fence), or changes in grade (such as a berm).

Landscape buffer means a continuous area of land which is required by Sec. 7.3, Landscape and buffering, to be set aside along the perimeter of a lot or parcel in which existing native vegetation, relocated native vegetation, and landscaping is used to provide a transition between and to reduce the negative environmental, aesthetic, compatibility and other impacts of one (1) use upon another. Buffers may contain both signage and pedestrian paths.

Landscape maintenance service means an establishment engaged in the provision of landscape installation or maintenance services, but excluding retail or wholesale sale of plants or lawn and garden supplies from the premises.

Landscaping means any combination of living plants (such as grass, ground cover, shrubs, vines, hedges, or trees) or nonliving landscape material (such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials). Landscaping may include the preservation and incorporation of existing trees, vegetation, or ecosystems into site development.

Laundry service means an establishment that provides home-type washing, drying, drycleaning, or ironing machines for hire, to be used by customers on the premises, or that is engaged in providing household laundry and dry cleaning services with customer drop-off and pick-up.

Legal access See Access, legal.

Legal positive outfall means the permanently established connection of a stormwater discharge conveyance facility serving a development site to a watercourse or water body under the control and jurisdiction of one (1) or more public agencies, said connection being subject to all applicable agency permitting and approval requirements.

Level of Service (LOS) means an indicator of the extent or degree of service provided by, or proposed to be provided by a public facility or service based on and related to the operational characteristics of the public facility or service.

Library services mean those services provided by the Palm Beach County Library Taxing District.

Light cutoff means a luminaire with elements such as shields, reflectors or refractor panels which direct light and eliminate light spillover and glare.

Limb means the same as the definition for branch.

Limited access easement see Easement, limited access.

Limited access street see street, limited access.

Listed species see endangered species.

Litter means any garbage, rubbish, trash, refuse, can, bottle, box, container, paper, tobacco product, tire, appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or equipment, sludge from a waste treatment facility, or air pollution control facility, or substance in any form resulting from domestic, industrial, commercial, mining, or government operations.

Littoral Zone means that region of the shoreline beginning at the OHW and extending waterward to a maximum depth of minus three (-3) feet OHW.

Livestock raising means the breeding, raising and caring for animals that are used for products. Livestock shall also include horses.

Loading space means the off-the street area designated for loading and unloading of trucks, in the form which may include one (1) or more truck berths located either within a building or in an open area on the same lot.

Local government means Palm Beach County, or a municipality in Palm Beach County.

Local government development order means a Development Order properly issued by the County through procedures established by Code which establishes the specific use or uses of land, sets the density, and involves an active and specific consideration by the County of particular detailed development concept. It shall include Affidavits of Exemption and Subdivision approval. It typically involves the submission and review of a master plan, site plan, or building plans, but may not necessarily involve such. It shall not include land use designations established by a Local Government's Comprehensive Plan. It does not include comprehensive general rezoning/district boundary changes initiated by the County. It typically involves a petition of the land owner for his property alone and not adjoining properties. It does not include vegetative removal, clearing, grading or demolition permits.

Local government comprehensive plan means the Comprehensive Plan of a local government adopted pursuant to Sec. 163.3161, et. seq. Fla. Stat.

Local planning agency means the local planning agency designated by the Palm Beach County Board of County Commissioners to prepare the Comprehensive Plan pursuant to Sec. 163.3161, et. seq., Fla. Stat..

Local street see street, local.

LOS for Rural Service Area means the LOS established for the areas identified as the Rural Service Area in the Future Land Use Atlas of the Comprehensive Plan.

LOS for Urban Service Area means the LOS established for those areas identified as the Urban Service Area in the Future Land Use Atlas of the Comprehensive Plan.

Lot means the smallest division of land identified as a single unit of ownership for conveyance and legal development purposes,and delineated by a closed boundary which is either:

1. Depicted on a record plat;
2. Depicted on a survey, map, or drawing for which an affidavit or waiver or affidavit of exemption has been recorded; or
3. Described on a recorded deed or agreement for deed.

The total area of abutting lands joined pursuant to a recorded unity of title shall be deemed a single lot for the purposes of this code. As used herein, the term shall be synonymous with the terms "plot," "parcel," or "tract" when referring to lands within a closed boundary not further divided by one or more interior property lines.

Lot area means the total horizontal area included within lot lines.

Lot, corner means either a lot bounded entirely by streets, or a lot which adjoins the point of intersection of two (2) or more streets.

Lot depth means the horizontal length of a straight line drawn from the midpoint of the front property line of a lot to the midpoint of the rear property line.

Lot frontage means that side of the property line abutting a legally accessible street right-of-way. On a corner lot, the frontage may be designated by the owner, subject to the approval by the Zoning Division who will determine whether it is consistent with the orientation of the other lots and improvements on the same side of the accessible street right-of-way.

Lot, interior means any lot neither a corner lot nor a through lot.

Lot line, front means the lot line adjacent to a street.

Lot line, interior means any lot line not adjacent to a street.

Lot line, rear means that lot line which is opposite, generally parallel to, and most distant from the front lot line.

Lot, through (double frontage) means any lot having frontage on two (2) nonintersecting streets.

Lot width means the horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear property lines.

Lounge, cocktail means a use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, lounges, and similar uses other than restaurants or alcohol sales for off-premises consumption. A cocktail lounge is distinct from a restaurant that sells alcohol when the establishment cannot qualify for a "Consumption on Premises, Special Restaurant Exemption" pursuant to the State Beverage Law.

Luminaire means a complete lighting unit, consisting of a light source and all necessary mechanical, electrical and decorative parts.

Machine or welding shop means a workshop where machines, machine parts, or other metal products are fabricated. Typical uses include machine shops, welding shops and sheet metal shops.

Machinery, heavy see Industrial equipment.

Major intersection means the intersection of two (2) or more major thoroughfares.

Major road network system means all arterial and major collector roads in the county (excluding local roads and minor collectors), and all roads on the thoroughfare right-of-way identification map of the County's comprehensive plan. The distinction between major and minor collectors shall be made by the County Engineer, based upon accepted traffic engineering principles. Consideration shall be given to such factors as traffic volumes, trip length continuity, and access.

Major street see Street, major.

Mangrove means any specimen of the species Avicennia germinans (black mangrove), Laguncularia racemosa (white mangrove), Rhizophora mangle (red mangrove), or Conocarpus erecta (buttonwood).

Mangrove fringe means those shoreline mangrove areas whose width does not exceed thirty feet as measured from the landward edge of the mangrove trunk most landward of MHW (or MHW itself in the absence of any landward tree), waterward along a line perpendicular to MHW, to the waterward edge of the mangrove trunk most waterward of MHW.

Mangrove stand means an assemblage of mangrove trees that is mostly low trees noted for a copious development of interfacing adventitious roots above the ground and that contain one (1) or more of the following species: black mangrove (Avicennia germinans); red mangrove (Rhizophora mangle); white mangrove (Languncularia racemosa); and buttonwood (Conocarpus erecta).

Manufactured building means a closed structure, building assemble, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems manufactured with or without other specified components, as a finished building or as part of a finished building, which is used as a dwelling unit or residence or office. This above definition does not apply to mobile homes. Manufactured building may also mean, at the option of the manufacturer, any dwelling unit or residence of open construction made or assembled in manufacturing facilities away from the building site for installation, or assembly and installation, on the building site.

Manufacturing and processing means an establishment engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales and distribution of such products, but excluding heavy industrial processing. Typical uses include factories, large-scale production, wholesale distribution, publishing and food processing.

Map of known archaeological sites means a map adopted as part of this ordinance and updated as needed identifying known archaeological sites in the unincorporated areas of Palm Beach County.

Marginal access street see Street, marginal access.

Marina see Marine facility.

Marine facility means a commercial facility relating to boating. Typical uses include boatdocks, marinas, boatyards, yacht clubs and marina boatels.

Mass transit facilities mean the planning of, engineering for, preparation of acquisition documents for, acquisition of land for, or the construction of or purchase of mass transit facilities and equipment necessary to meet the LOS for mass transit facilities.

Master property owner's association means a Property Owner's Association of which membership is mandatory with the ownership of property subject to the Master Property Owner's Association and which has the authority to represent the members and bind the members by such representation.

Material, excess means excavated material not required for backfill or grading of the premises as determined by a final site plan.

Material, extractive or excavated means earth, sand, gravel, rock, shellrock, muck, or other mineral or organic substance, other than vegetation, which naturally occurs upon a lot.

Maximum contaminant level means, for the purpose of Sec. 16.2 (Water Supply Systems), the maximum permissible level of a contaminant in water which is delivered to the free flowing outlet of the ultimate user of a water system. Contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition.

Maximum day means, for the purpose of Sec. 16.2 (Water Supply Systems), the highest day of water consumption within any twenty-four (24) hour period from midnight without fire flow expected or recorded by the water supply system.

Mean high water means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), the average height of tidal high water over a nineteen (19) year period.

Mean sea level means the average height of the sea for all stages of the tide based on the National Geodetic Vertical Datum.

Medical or dental office or clinic means an establishment where patients, who are not lodged overnight are admitted for examination and treatment by one (1) person or group of persons practicing any form of healing or health-building services to individuals, whether such persons be medical doctors, chiropractors, osteopaths, chiropodists, naturopaths, optometrists, dentists, or any such profession, the practice of which is lawful in the State of Florida.

Medical or dental laboratory means a facility for the construction or repair of prosthetic devices or medical testing exclusively on the written work order of a licensed member of the dental or medical profession and not for the public.

Meeting hall means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), a building designed for public assembly.

Menu board means an outdoor sign associated with restaurants with drive-thru windows, which gives a detailed list of foods served that are available at a restaurant and which may incorporate a speaker for voice communication.

Mezzanine means a low-ceilinged story between two (2) main stories of a building. A mezzanine shall be counted as one story if it covers more than one-third (⅓) of the area of the floor next below.

Migrant farm labor quarters means one (1) or more residential buildings occupied or intended for seasonal occupancy by transient farm workers who are employed by the owner of the farm.

Military installation means a facility designed for use by a branch of the Armed Forces.

Mined lake means a body of water, excluding canals of conveyance, greater than one (1) acre in size or greater than six (6) feet in depth from OHW and which will remain open for longer than one hundred eighty (180) days. Multiple (more than one) bodies of water constructed on a parcel or parcels of property under common ownership or control shall be considered a mined lake when such water bodies have a combined surface area greater than one (1) acre.

Mined lake, existing means a lake constructed, under construction or to be constructed under permit of a jurisdictional agency prior to the effective date of Sec. 7.6 (Excavation).

Mining operation means the extraction of subsurface materials for use at a location other than the immediate construction site.

Minor street see Street, minor.

Minor vehicle repair and related services means limited vehicle repairs, including tire repair and changing, belt, water pump and steering pump replacement, electrical system repair, tune-ups, oil changes, light bulbs and headlight replacement, fluid replacement and similar minor services including the hand washing, waxing or detailing of a vehicle. Such services as paint and body work, reupholstering of seats, replacement of roof linings, replacement or rebuilding of engines, transmission repair, muffler replacement, and brake repair shall not be considered minor repair.

Mitigation means an action or series of actions that will offset the adverse impacts to the native upland ecosystems in Palm Beach County that cause a project to be not approved.

Mixed use means, for the purposes of Article 10, Impact Fees, a group of different uses of land within a building for which applications for development permits are sought.

Mobile home means a detached, transportable single family dwelling unit, manufactured upon a chassis or undercarriage as an integral part thereof, without independent motive power, designed for long term occupancy as a complete dwelling unit and containing all conveniences and facilities, with plumbing and electrical connections provided for attachment to approved utility systems.

Mobile home dwelling means the use of a lot or a unit for one (1) mobile home.

Mobile home park means a planned development district approved according to Section 6.8, Planned Development District Regulations.

Mobile home subdivision means a subdivision of land for the sale of lots intended for the placement of mobile homes and which meets the requirements of Art. 8, Subdivision, Platting and Required Improvements.

Mobile minor vehicle repair and related services means a business which travels to the customer's vehicle in order to perform minor repairs or related services.

Monument sales, retail means an establishment primarily engaged in the retail sale of monuments, such as headstones, footstones, markers, statues, obelisks, cornerstones, gargoyles and ledges, for placement on graves, including indoor or outdoor storage.

Monument sign means a freestanding, point of purchase sign, erected on the ground without a visible pole, and placed upon or supported by the ground.

Motion picture production studio means the use of a lot or building for the production of films or videotapes for exhibition or sale.

Motor vehicle shall have the meaning ascribed by the statutes of the State of Florida providing for the regulation, registration, licensing and recordation of ownership of motor vehicles in the State of Florida.

Mound system means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), a drainfield system in which the distribution pipe is installed in fill material above natural grade.

Moving sign means the signs that are moved by mechanical or natural means, such as wind. These signs including moving, revolving, rotating, and twirling signs.

Mulch means non-living organic material customarily used in landscape design to retard erosion and retain moisture.

Multi-family means the use of a structure designed for two (2) or more dwelling units which are attached, or the use of a lot for two or more dwelling units excluding mobile homes. Typical uses include apartments and residential condominiums.

Municipality means a general purpose local governmental entity created by the State Legislature and governed by Sec. 166.01, et. seq., Fla. Stat.

Nameplate means a sign indicating the name, address, profession or occupation of an occupant or a group of occupants.

Native plant species see Plant species, native.

Native upland vegetation means the plant component of a native Florida upland community (a characteristic assemblage of native plant and animal species which are interrelated and occupy predominantly upland terrain), which includes intact upland vegetation include, but are not limited to, Florida scrub, pine flatwoods, scrubby flatwoods, coastal dune and strand, hammocks (natural, tropical, mesic, and hydric), dry prairies, and drained cypress heads.

Natural area means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), waterways, wetlands, nature preserves, and other lands designated on the preliminary development plan to be preserved in perpetuity.

Neighborhood means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), the developed and undeveloped areas of a TND, including the "neighborhood proper", adjacent "edge areas", and adjacent through streets. A TND may consist of one or more neighborhoods.

Neighborhood park means the smallest class park that is less than ten (10) acres in size and usually less than five (5) acres. Recreational facilities are generally few in number due to size restraints and developed according to the demands and character of the neighborhood that they serve.

Neighborhood proper means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), the area of a neighborhood, including its blocks, streets, alleys, squares, and parks, but excluding adjacent edge areas and through streets.

Nest means the area in which sea turtle eggs are naturally deposited or relocated beneath the sediments of the beach-dune system.

Nesting season means the period from March 1 through October 31 of each year.

Net usable land means, for the purpose of Sec. 16.1 (Environmental Control Rule I), the total area of a parcel less all street, wet areas, canals, right-of-ways, drainage easements and other impairments to the owner's unrestricted use thereof as a building site.

New capital facilities means newly constructed, expanded or added capital facilities which provide additional capacity. New capital facilities shall not include that portion of reconstruction or remodeling of existing facilities that does not create additional capacity.

New construction means structures for which the start of construction commenced on or after the effective date of this code.

New manufactured home park or manufactured home subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, or the construction of streets) is completed on or after the effective date of this code.

Newsstand or gift shop means a small establishment, occupying no more than one thousand five hundred (1,500) square feet of gross floor area, primarily engaged in the retail sale of gifts, novelties, greeting cards, newspapers, magazines or similar items.

Noncombustible refuse means wastes that are unburnable at ordinary incinerator temperature (800 to 1800 degrees F) such as metals, mineral matter, appliances, metal furniture, auto bodies or parts, and other similar material or refuse not usual to housekeeping or to operation of stores or offices.

Non-commencement means the failure to begin, or the discontinuation of, construction activity that would make a material change in a structure as evidenced by the cancellation, lapsing, or revocation of a building permit; or the failure to begin, or the discontinuation of, any other land use activity that would make a material change in the use of land. It shall include the over-payment of an impact fee due to miscalculation.

Non-community water supply means, for the purpose of Sec. 16.2 (Water Supply Systems), a water system for provision of piped water under pressure for human consumption, culinary, sanitary or domestic purposes that serves at least twenty-five (25) individuals daily at least sixty (60) days out of the year but is not a community water system.

Nonconforming lot means a single lot, tract or parcel of land of record that was conforming at the time of its creation, but which fails to meet the requirements for area, width or depth under the current district regulations of this Code or the Comprehensive Plan.

Nonconforming sign means a sign or advertising structure or parts therein existing within the unincorporated area on the effective date of this code which, by its height, square foot area, location, use, operating characteristics or structural support does not conform to the requirements of Sec. 7.14, Signage.

Nonconforming structure means a structure that was lawfully established before this Code was adopted or amended, that does not conform to the property development regulations of area, height, lot coverage, yard setbacks, lot location, parking, or other dimensional requirements for the zoning district in which it is located.

Nonconforming use means a use that was lawfully established before this Code was adopted or amended which does not conform to the use regulations of the zoning district in which it is located.

Nonconformities mean uses of land, structures, lots and landscaping that were lawfully established before this Code was adopted or amended, that are not in conformity with the terms and requirements of this Code.

Nonplan collector street see Street, collector, nonplan.

Nonputrescible materials mean materials incapable of decomposition or causing environmental nuisances or obnoxious odors.

Nonresidential activity means any activity which occurs in any building, structure or open area which is not used primarily as a private residence or dwelling.

Non-transient non-community water supply means, for the purpose of Sec. 16.2 (Water Supply Systems), a water system for provision of piped water under pressure for human consumption, culinary, sanitary, or domestic purposes that regularly serves at least 25 of the same person over 6 months per year but is not a community water system.

Nursery, retail means the cultivation, for wholesale or retail sale, of horticultural specialties such as flowers, shrubs, sod, and trees, intended for ornamental or landscaping purposes.

Nursery, wholesale means the cultivation for wholesale sale of horticultural specialties such as flowers, shrubs, sod, and trees, intended for ornamental or landscaping purposes.

Nursing or convalescent facility means an establishment where, for compensation pursuant to a previous arrangement, care is offered or provided for three (3) or more persons suffering from illness, other than a contagious disease, or sociopathic or psychopathic behavior, which is not of sufficient severity to require hospital attention, or for three (3) or more persons requiring further institutional care after being discharged from a hospital, other than a mental hospital. Patients usually require domiciliary care in addition to nursing care.

"O" Horizon means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), the layer of organic matter on the surface of a mineral soil. This soil layer consists of decaying plant residues.

Off-premises sign means any framework for signs announcing or advertising merchandise, services, or entertainment available, sold, produced, manufactured, or furnished at a place other than the lot on which the sign is erected.

Off-site improvements means improvements constructed outside of the boundaries of the project which are required as a part of a development approval.

Owner means the owner of the freehold estates, as appears by deed of record, or agreement for deed. It shall not include short-term lessees, reversioners, remainderman, or mortgagees. It shall include lessees with a lease of more than twenty-five (25) years.

Office means for the purpose of Art. 10, Impact Fees, a building used primarily for conducting the affairs of or the administration of a business, organization profession, service, industry or similar activity.

Office, business or professional means an establishment providing executive, management, administrative or professional services, but not involving medical or dental services or the sale of merchandise, except as incidental to a permitted use. Typical uses include property and financial management firms, employment agencies, travel agencies, advertising agencies, secretarial and telephone services, contract post offices; professional or consulting services in the fields of law, architecture, design, engineering, accounting and similar professions; and business offices of private companies, utility companies, public agencies, and trade associations.

Office of industrial nature means an establishment providing executive, management, or administrative support, but not involving medical or dental services, the sale of merchandise, or professional services (business or professional offices). Typical uses involve corporate headquarters or other similar offices whose function does not include frequent visits by the public or the provision of services.

Official Zoning Map means the official map upon which the boundaries of each district are designated and established as approved and adopted by the governing body, made a part of the official public records of Palm Beach County, Florida, and shall be the final authority as to amend zoning status of land and water areas, buildings, and other structures in the unincorporated area of the County and incorporated into this code by reference.

Off-street loading space means the stall and berth along with the apron or maneuvering area incidental thereto.

One-foot drawdown contour means the locus of points around a well or wellfield where the free water elevation is lowered by one (1) foot due to a specified pumping rate of the well or wellfield.

On-site sewage disposal system means, for the purpose of Sec. 16.1 , a system of piping, tanks, or treatment devices and a drainfield for treatment and disposal of domestic sewage.

Operating permit means the permit required of certain activities to operate within wellfield zones, the criteria for which are set forth under Sec. 9.4

Open space means unbuilt land reserved for but not limited to one or more of the following uses: conservation, passive recreation, protection, ornamentation (i.e., scenic corridor), linkage and buffer/development barrier use and water retention.

Open to the public means those park acres developed according to the Park and Recreation Department's adopted Park Master Plan and made available to the general public for specific recreational purposes whether for a fee or free of charge.

Ordinary High Water (OHW) means, for areas with an established control elevation, the control elevation will be the OHW. For areas without an established control elevation, the wet season water table prior to the mining activity will be OHW.

Original value of the structure means the value of the structure at the time it was issued a Certificate of Occupancy, based upon an appraisal by a Member of the Appraiser's Institute (MAI).

Outbuilding means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), a detached accessory building constructed on a residential lot housing a garage, accessory apartment or handicapped or elderly apartment.

Owner, motor vehicle means the person to which the motor vehicle is registered on the motor vehicle certificate of title and shall include, if under lease, rental agreement or loan under any other type of arrangement, gratuitous or otherwise, the person having possession or control of the vehicle.

Package wastewater treatment facility means a facility consisting of a prefabricated wastewater treatment unit and on-site disposal system, intended to provide sewer service to a single development which does not have central sewer service available.

Package, water treatment facility means a facility consisting of a prefabricated water treatment unit, intended to provide water service to a single development which does not have central water service available.

Packing plant means a facility, accessory to bona fide agriculture, used for the packing of produce not necessarily grown on site.

Painted wall sign means any sign painted on any surface or roof of any building, visible from any public right-of-way.

Parcel means a unit of land legally established property lines.

Parcel Control Number means a Palm Beach County identification number assigned for each parcel of land

Park means for the purpose of the Adult Entertainment Establishment provisions of this Code, a tract of land within a municipality or unincorporated area which is (1) kept for ornament and/ or recreation, and which is open to the public, whether or not the land is publicly owned, or (2) land privately owned which is kept for ornament and/ or recreation purposes and which is limited to surrounding landowners. A playground shall be considered a park.

Park means a developed or planned site owned by a governmental entity that offers the general public an opportunity to partake in a variety of recreational activities that may be active, passive, or special in nature in a safe and convenient manner that is compatible with its environs.

Park, neighborhood means, for the purpose of Sec. 6.8.C an open space area providing passive and active recreation and usable open green space within walking distance of housing.

Park, passive means a public or private outdoor recreational use relying on a natural or man-made resource base and developed with a low intensity of impact on the land. Typical uses include trail systems, wildlife management and demonstration areas for historical, cultural, scientific, educational or other purposes that relates to the natural qualities of the area, and support facilities for such activities.

Park, public means a publicly-owned or operated park or beach providing opportunities for active or passive recreational activities to the general public.

Parking garage, commercial means a building or other structure that provides temporary parking or storage for motor vehicles, where some or all of the parking spaces are not accessory to another principal use.

Parking lot means an off-street, private or public area constructed at grade which is used for the temporary parking of automobiles, motorcycles and trucks. Parking lots include access aisles, ramps, maneuvering and all vehicle use areas.

Parking lot, commercial means a paved area intended or used for the off-street parking or storage of operable motor vehicles on a temporary basis, other than accessory to a principal use.

Parking lot, shared or common means a parking lot or area that serves more than one (1) lot, use or residential dwelling.

Parking, off-street means the minimum number of parking spaces per land use as required by this section.

Parking space means a surfaced or grassed area, enclosed or unenclosed, sufficient in size and approved to store one (1) motor vehicle.

Parking tract means a parking lot delineated on a plat or otherwise created by instrument of record for the purpose of providing common vehicular parking and legal access for owners of abutting lots.

Patio means an open unoccupied space which may be partially enclosed by wall, fence, or building and not considered part of the residential living structure.

Patio home See Zero lot line dwelling.

Peak nesting season means the period from May 1 through October 31 of each year.

Pennant see Flag.

Percolation pond means an artificial impoundment similar to a holding pond for which the design and operation provides for fluid losses through percolation of seepage.

Percolation test means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), a test conducted in compliance with Section 11 hereof to determine the rate of percolation or seepage of water through soils in the area of the drainfield, the result of which test is expressed as time in minutes per one inch drop of water.

Performance security means funds irrevocably committed by written instrument that are sufficient to secure the complete performance of a contract or condition of a development order, Development Agreement, or covenant. Performance securities shall be denominated in United States dollars. The form of the security shall be approved by the County Attorney, and may include:

1. An irrevocable letter of credit;
2. An Escrow Agreement;
3. A Surety Bond;
4. A cash bond; or
5. Any other form of comparable security.

Permitted agent of the State means any qualified individual, group or organization possessing a permit from Florida Department of Natural Resources (FDNR) to conduct activities related to sea turtle protection and conservation.

Person means any individual, corporation, governmental agency, business trust, estate, trust, partnership, association, property owners' association two (2) or more persons having a joint or common interest, governmental agency, or any other legal entity.

Person means for the purpose of the Adult Entertainment Establishment provisions of this Code, includes an individual(s), firm(s), association(s), joint ventures(s), partnership(s), estate(s), trust(s), business trust(s), syndicate(s), fiduciary(ies), corporation(s), and all other or any other similar entity.

Personal services mean an establishment engaged in the provision of frequently or recurrently needed services of a personal nature, or the provision of informational, instructional, personal improvement or similar services, which may involve the limited accessory sale of retail products. Typical uses include art and music schools, beauty and barber shops, driving schools, licensed therapeutic massage studios, photography studios and tanning salons.

Phased development means development which is designed, permitted or platted in distinct, sequential stages to be developed over a specified period of time.

Plan means the 1989 Palm Beach County Comprehensive Plan as amended from time to time.

Plan collector street see street, plan collector.

Planned Development means a planned development district or a previously approved planned development. A regulation containing the term "planned development" means that the regulation applies to a planned development district and a previously approved planned development.

Planned Development District means a zoning district which is approved pursuant to the policies and procedures of Section 6.8, Planned Development Districts of this code including: PUD, Residential Planned Unit Development District; TND, Traditional Neighborhood Development District; MXPD, Mixed-Use Planned Development District; MUPD, Multiple Use Planned Development District; PIPD, Planned Industrial Park Development District; MHPD, Mobile Home Park Planned Development District; RVPD, Recreational Vehicle Park Planned Development District; and, SWPD, Solid Waste Disposal Planned Development District.

Planning Director of PZB means the division head of the Palm Beach County Planning Division.

Plant species, controlled means those plant species, as listed in Sec. 7.3 (Landscaping and Buffering), that are demonstrably detrimental to native plants, native wildlife, ecosystems, or human health, safety, and welfare.

Plant species, native means any plant species with a geographic distribution indigenous to all or part of South Florida. Plant species which have been introduced by man are not native vegetation.

Plant species, prohibited means those species as defined in the landscape section of this code, as being demonstrably detrimental to native plants, wildlife, the ecosystem or public health, safety, or welfare.

Plastic sign means any sign, embellishment or sign area made of flat sheet, corrugated panels, formed or molded plastic on one (1) or more faces.

Plat means a map or delineated representation of the subdivision of lands, being a complete, exact representation of the subdivision and other information in compliance with the requirements of all applicable provisions of Art. 8 and Chapter 177, Fla. Stat., and may include the terms "replat," "amended plat," or "revised plat."

Plat, boundary means a map or delineated representation for recordation of a single lot for development purposes prepared, approved, and recorded in accordance with requirements and procedures for a plat pursuant to Art. 8 and Chapter 177, Fla. Stat.

Plat, final means a finished plat including all signatures required for recordation except those signifying approval by the County.

Plat, preliminary means a copy of the plat in sufficient form to readily compare the plat with the subdivision plan and construction plans.

Plat of record means a plat which conforms to the requirements of the applicable state laws and Art. 8, Subdivision, which has received all required County approvals for recordation, and which has been placed in the official records of Palm Beach County.

Portable sign means any sign not permanently attached to the ground or other structure.

Project means a land use or group of land uses involving the development of a particular parcel of land at a particular density which was granted a Valid Local Government Development Order, or which substantially complies with applicable provisions of the Palm Beach County Subdivision Code as determined by the Director of the Land Development Division of the Palm Beach County Engineering Department.

Pneumatophore means the aerial root structure from the species Avicennia germinans (black mangrove), or Laguncularia racemosa (white mangrove).

Point of purchase sign means any structure with characters, letters or illustrations placed thereto, thereon, or thereunder by any method or means whatsoever where the matter displayed is used for advertising on the premises, a product actually or actively offered for sale or rent thereon or therein or services rendered.

Pole or ground sign See Freestanding sign

Pole trailer shall have the meaning ascribed by the statutes of the State of Florida providing for the regulation, registration, licensing and recordation of ownership of motor vehicles in the State of Florida.

Political sign means any advertising structure used in connection with a local, state, or national election campaign.

Pollutant means any substance which is harmful or threatening to plant, animal or human life.

Porch means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), an unairconditioned, roofed structure attached to a dwelling unit.

Positive drainage means the provision of a stormwater management system which conveys stormwater runoff to a point of legal positive outfall.

Potable water facilities mean the planning of, engineering for, preparation of acquisition documents for, acquisition of land for, or construction of potable water facilities necessary to meet the LOS for potable water facilities.

Pottery shop, custom means an establishment engaged in the manufacture of products from clay.

Potting soil manufacturing means an establishment engaged in producing potting soil, including the use of incineration.

Preliminary development plan means a generalized depiction of use categories presented to the appropriate review body for planned development districts, previously approved planned developments (master plans and site plans), and conditional use A and B approvals.

Premises mean any lot, area, or tract of land whether used in connection with a building or not.

Preservation management plan means a plan that will provide for the perpetual viability of a designated preserve area including the ongoing control of invasive non-native plant species.

Preserve or preserve area means that portion of native vegetation which is required to be set aside from development or other alteration activities, protected from the removal of any native plant species, managed to maintain viability for wildlife habitat, and maintained free of non-native plant species.

Previously Approved Planned Development means a Planned Development approved by rezoning, special exception or conditional use prior to the effective date of this code. Previously Approved Planned Developments include: Planned Unit Developments; Traditional Neighborhood District Developments; Mixed-Use Developments; Planned Neighborhood Commercial Developments; Planned General Commercial Developments Large Scale Community and Regional Shopping Center Developments 30,000 square feet and 50,000 square feet Planned Office Business Park Developments; Planned Industrial Park Developments; Planned Industrial Park District Developments; Mobile Home Rental Park, Condominium, and Conditional Use Developments; Recreational Vehicle Park Developments; Sanitary Landfill, Resource Recovery Facility, Volume Reduction Plant and Incinerator Developments; and other special exceptions, or conditional uses approved prior to the effective date of this code which support land uses regulated by Sec. 6.8.

Principal use see Use, principal.

Printing and copying services means an establishment engaged in retail photocopy, reproduction, or blueprinting services.

Privacy fence or wall means a structural barrier of an opaque quality, constructed such that the privacy of the area to be enclosed is maintained.

Private street see Street, private.

Private water system means, for the purpose of Sec. 16.2 (Water Supply Systems), a well, spring, cistern or other similar source of water and appurtenances of piped water for human consumption and other domestic purposes used only by individual family units including private homes, duplexes and a building of four (4) family units or less.

Projecting sign means any sign viewed from directly overhead is affixed at an angle or perpendicularly to the wall of any building in such a manner to read perpendicularly or at an angle to the wall on which it is mounted and located under a canopy or cover.

Prop root means the structures originating below the lowest limbs of the red mangrove that are also known as stilt roots.

Property owners' association means an organization recognized under the laws of the State, operated under recorded maintenance and ownership agreements through which each owner of a portion of a subdivision, be it a lot, home, property or any other interest, is automatically a voting member, and each such member is automatically subject to a charge for a prorated share of expenses, either direct or indirect, for maintaining common properties within the subdivision, such as roads, parks, recreational areas, common areas and other similar properties. Within the text of this Code, a property owners' association is considered to be a single entity for property ownership. As used in this Code, the term "property owners association" shall also be deemed to include a homeowners' association, condominium association or cooperative (apartment) association, as defined in Chapter 711, Fla. Stat., as amended, having a life tenure of not less than twenty (20) years, as well as a third party having an agreement with a condominium or cooperative association as permitted by Chapter 711, Fla. Stat., as amended.

Pruning means the removal of plant parts, dead or alive, in a careful and systematic manner so as to not damage other parts of the plant.

Public agency means any government or governmental agency, board, commission, authority or public body of Palm Beach County, the State of Florida, or of the United States government, or any legally constituted governmental subdivision or special district.

Public easement see Easement, public

Public facilities means capital facilities including but not limited to for roads, parks and recreation, fire-rescue, library, law enforcement, public buildings, and school sites.

Public Facilities Agreement means an agreement entered into by Palm Beach County or a Service Provider and a developer or landowner for the purpose of ensuring public facility capacity is reserved for a proposed development.

Public Health Unit means the HRS/Palm Beach County Public Health Unit.

Public street see Street, public.

Public utility means an entity owning, operating, managing or controlling a system or proposing construction of a system that is providing or proposing to provide water or sewer service, electricity, natural or manufactured gas, or any similar gaseous substance, telephone, telegraph or other communication service to the public for compensation.

Public works projects means projects that may be conducted by government agencies or are linear projects, such as pipelines, transmission lines, telephone lines, etc., that are constructed for no single property.

Quasi-public easement see Easement, quasi-public.

Quasi-public use means a use or group of uses open for general public use, such as stadiums, amphitheaters, civic centers, and colleges. It does not include shopping centers or other retail uses, and hotels.

Queuing area means a one-way aisle that provides a waiting area for a specified number of cars.

Raised basement means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), a semi-underground story of a building.

Real estate sign means any sign erected by the owner, or an agent, advertising the land upon which the sign is located for rent or for sale.

Reclamation means increasing land use capability to be made suitable for development, by changing the land's character or environment through drainage, fill or revegetation.

Recreation and park facilities mean the planning of, engineering for, preparation of acquisition documents for, acquisition of land for, or construction of buildings and park equipment necessary to meet the LOS for Urban Park and Recreation Facilities and Rural Park and Recreation Facilities.

Recreation facility means a facility designed and intended for use by occupants of a residential development. Typical uses include golf courses, swimming pools and tennis courts and required recreational areas.

Recreational vehicle means a truck, bus, automobile trailer, camp-car, trailer, pickup camper, pop-up camper, bus, or other vehicle with or without motor power, converted or equipped with living or sleeping quarters, designed and constructed to travel on public thoroughfares without special permit in accordance with the provisions of the Vehicle Code of the State of Florida.

Recreational vehicle park means a land area under unified control designed and intended to accommodate short-term, overnight parking of recreational vehicles and not for permanent residential use.

Recycling center means a permanent facility designed and used for collecting, purchasing, storing and redistributing pre-sorted, recyclable materials that are not intended for disposal. A recycling center shall be used for limited processing of recyclable materials, such as can and glass crushing and sorting.

Recycling collection station means a mobile container designed and used for deposit of recyclable materials and typically monitored by a person.

Recycling drop-off station means a totally enclosed structure, containing no more than five hundred (500) square feet of gross floor area, within which pre-sorted, non-biodegradable recyclable materials are collected for redistribution or sale for the purpose of reuse.

Recycling plant means a permanent facility designed and used for receiving, separating, storing, converting, baling or processing of non-hazardous recyclable materials that are not intended for disposal. The use may include construction debris recycling or other intensive recycling processes such as chipping and mulching.

Regional park means the largest class park in Palm Beach County. It generally exceeds two hundred and fifty (250) acres in size and also provides access to a substantial resource base. Regional parks primarily provide passive recreational facilities and to a lesser degree active recreational facilities where no adverse impact on the resource base results. Recreational facilities in regional parks are primarily passive or resource based in nature with picnicking, camping, hiking, fishing, and boating as the main activities. Special facilities such as museums, golf courses, or water skiing facilities may also be included, as well as some of those active facilities often found in district parks.

Regulating plan means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), a graphic and written representation of the detailed land use and development regulations applicable to a particular TND.

Regulated Substances means:

1. Those deleterious substances and contaminants, including degradation and interaction products which, because of quality, concentration, or physical, chemical (including ignitability, corrosivity, reactiveness and toxicity), or infectious characteristics, radioactivity, mutagenicity, carcinogenicity, teratogenicity, bioaccumulative effect, persistence (non-degradability) in nature, or any other characteristic, may cause significant harm to human health and environment (including surface and groundwater, plants, and animals).

2. Those substances set forth in, but not limited to, the Lists of Hazardous Wastes (40 CFR Part 261, Subpart D), 40 CFR, Part 261, Appendix VIII-Hazardous Constituents, and EPA Designation Reportable Quantities and Notification Requirements for Hazardous Substances Under CERCLA (40 CFR 302, effective July 3, 1986); as amended from time to time provided, however, that this section shall only apply whenever the aggregate sum of all quantities of any one Regulated Substance at a given facility/building, at any one time, exceeds five (5) gallons where said substance is a liquid, or twenty-five (25) pounds where said substance is a solid. The section shall also apply if no single substance exceeds the above reference limits but the aggregate sum of all Regulated Substances present at one facility/building, at any one time, exceeds one hundred (100) gallons if said substances are liquids, or five hundred (500) pounds if said substances are solids.

   Where Regulated Substances are dissolved in or mixed with other non-Regulated Substances, only the actual quantity of the Regulated Substance present shall be used to determine compliance with the provisions of this section. Where a Regulated Substance is a liquid, the total volume of the Regulated Substance present in a solution or mixture of said substance with other substances shall be determined by volume percent composition of the Regulated Substance, provided that the solution or mixture containing the Regulated Substance does not itself have any of the characteristics identified in paragraph one of this definition.

Religious activities means for the purpose of the Adult Entertainment Establishment provisions of this Code, any daily, weekly, or periodic activity associated with or that occurs at a religious institution.

Religious institution means for the purpose of the Adult Entertainment Establishment provisions of this Code, a premises or site which is used primarily or exclusively for religious worship and related religious ecclesiastical or denominational organization or established place of worship, retreat, site, camp or similar facilities owned or operated by a bona fide religious group for religious activities shall be considered a religious institution.

Repair means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), modification or addition to a failing on-site sewage disposal system which are necessary to allow the system to function or which are necessary to eliminate a public health or pollution hazard. Pumping of septage from a system and making minor structural corrections to a tank or building sewer do not constitute repair.

Repair and maintenance, general means an establishment engaged in the repair and maintenance of motor vehicles or other heavy equipment or machinery, including automobiles, boats, golf carts, mopeds, motorcycles and trucks, excluding paint and body work. Typical uses include automobile repair garages, automobile tune-up stations, automotive glass shops, quick-lubes and muffler shops.

Repair services, limited means an establishment engaged in the repair of personal apparel and household appliances, furniture, and similar items, excluding repair of motor vehicles. Typical uses include apparel repair and alterations, small appliance repair, small motor repair(including golf carts, mopeds and lawn mowers), bicycle repair, clock and watch repair, and shoe repair shops.

Required recreation areas means recreational tracts of land with facilities required within a residential development, dedicated or reserved to a property owners association for the perpetual use by all residents of the development for recreation.

Residence see dwelling unit.

Residential access street see Street, residential access.

Residential development means, for the purposes of Article 10, Impact fees, a building, or many buildings or dwelling units, or portion of a building or land used primarily for human habitation.

Residential district means any area that has a district classification of AR, CRS, RE, RT, RTS, RTU, RS, RM and RH, as well as residential pods of any Planned Development District. Any creation of an additional residential district by amendment to the Official Zoning Map which occurs shall automatically be included in the definition of residential district for the purposes of this Code.

Residential zoning district includes, for the purpose of the Adult Entertainment Establishment provisions of this Code, the following zoning districts which have not been designated in the comprehensive plan as commercial or industrial:

1. AR-Agricultural Residential
2. CRS-Country Residential
3. RE-Residential Estate
4. RT-Residential Transitional
5. RTS-Residential Transitional Suburban
6. RTU-Residential Transitional Urban
7. RS-Single-Family Residential
8. RM-Multiple-Family Residential (Medium Density)
9. RH-Multiple-Family Residential (High Density)
10. TND-Traditional Neighborhood Development
11. PUD-Planned Unit Development

Respondent/Alleged violator means those persons including both landowners and tenants who have been issued a Notice of Violation.

Restaurant, fast food means an establishment where the principal business is the sale of food and non-alcoholic beverages to the customer in a ready-to-consume state and where the design or principal method of operation is that of a fast-food or drive-in restaurant offering quick food service, where orders are generally not taken at the customer's table, where food is generally served in disposable wrapping or containers, and where food and beverages may be served directly to the customer in a motor vehicle.

Restaurant, general means an establishment excluding drive-thrus, where the principal business is the sale of food and beverages in a ready-to-consume state and where the design or principal method of operation consists of one or more of the following:

1. A sit-down restaurant where customers, normally provided with an individual menu, are generally served food and beverages in non-disposable containers by a restaurant employee at the same table or counter at which said items are consumed; or
2. A cafeteria or cafeteria-type operation where foods and beverages generally are served in non-disposable containers and consumed within the restaurant; or
3. A restaurant, which may have characteristics of a fast food restaurant, having floor area exclusively within a shopping or office center, sharing common parking facilities with other businesses within the center, and having access to a common interior pedestrian access way.
4. This use may include the on-premise sale, service and consumption of alcoholic beverages as an accessory and secondary use.

Restaurant, specialty means an establishment, excluding drive-thrus, engaged in the retail sale of a limited variety of baked goods, candy, coffee, ice cream or other specialty food items, which may or may not be prepared for on-premises sale and which may be consumed on the site.

Retail sales, general means an establishment providing general retail sales or rental of goods, but excluding those uses specifically classified in another use type. Uses include typical retail stores such as but not limited to clothing stores, auto parts stores, bookstores, business machine sales, food stores (excluding convenience stores), and marine supply sales (excluding boat sales). Uses shall also include the sale of bulky goods such as household goods, lawn mowers, mopeds, motorcycles and golf carts. Retail establishments may rent and perform incidental repair to their products. For impact fee purposes, general retail will also include services such as entertainment, eating and drinking establishments, and personal services.

Retail sales, mobile, temporary or transient means retail sales operations without a fixed or permanent location. Typical uses include sales of flowers or food products; transient sales operations which include travel to several locations in one day, such as lunch wagons, or ice cream trucks; temporary seasonal sales, such as Christmas trees or sparklers; and special event sales which require a tent or temporary structure.

Retention means the collection and storage of a specific portion of stormwater runoff without subsequent direct release to surface waters of said portion or any part thereof.

Retention or detention pond means any pit, pond, or excavation excluding canals of conveyance which creates a body of water by virtue of its connection to groundwater, and which is intended to receive stormwater.

Right-of-way means a strip of land dedicated or deeded to the perpetual use of the public.

Road facilities mean the planning of, engineering for, preparation of acquisition documents for, acquisition of land for, or construction of roads on the major road network system necessary to meet the LOS for road facilities.

Roof sign means any sign affixed to the building which extends above the peak of the roof at the location of the sign.

Rooming house see boarding house.

Rubbish means waste consisting of any accumulation of paper, excelsior, rags, wooden or paper boxes or containers, sweeping, and all other accumulations of a nature other than garbage, which are usual to housekeeping and to the operation of stores, offices and other business places, and also any bottles, cans, container, or any other products which due to their ability to retain water may serve as breeding places for mosquitoes or other water-breeding insects; rubbish shall not include noncombustible refuse.

Rural subdivision means a division of land within an Agriculture Residential (AR), Country Residential (CRS), or Agricultural Production (AP) district.

Salvage or junk yard means a lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal or discard material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition; or for the sale of parts thereof.

Sand means sediments having a distribution of particle diameters between .074 and 4.76 millimeters, as defined in the Unified Soils Classification System. Sand grain analyses shall follow the methodology described in Folk, Robert L. 1980, **Petrology of Sedimentary Rocks** to determine grain size distribution.

Sand preservation/Sea turtle protection zone means an area of jurisdiction, established by Section 9.1, for the purpose of maintaining the volume of beach sand within the beach/dune system as well as regulating coastal lighting. This zone extends from the mean high water line of the Atlantic Ocean to a line six hundred (600) feet landward.

Sanitary hazard means any percolation pond for domestic wastewater effluent disposal, the land application of domestic wastewater sludge or domestic wastewater effluents that have not received high-level disinfection as defined in Florida Administrative Code Chapter 17-610, and any on-site sewage disposal system (septic tank).

Sanitary landfill means a permitted disposal facility employing an engineered method of disposing of solid waste on land in a manner which minimizes environmental hazards by spreading the solid wastes in thin layers, providing a sand fill or approved substitute cover.

Sanitary nuisance means any act, or the keeping, maintaining, propagation, existence or permission of anything, by an individual, municipality, organization or corporation, by which the health or life of an individual may be threatened or impaired or by which or through which, directly or indirectly, disease may be caused.

Sanitary sewer facilities mean the planning of, engineering for, preparation of acquisition documents for, acquisition of land for, or construction of sanitary sewer facilities necessary to meet the LOS for sanitary sewer facilities.

Sanitary survey means, for the purpose of Sec. 16.2 (Water Supply Systems), on-site review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing drinking water meeting the quality standards of this regulation.

School, elementary or secondary means a premises or site upon which there is an institution of learning, whether public or private, which conducts regular classes and courses of study required for accreditation as an elementary or secondary school by the State Department of Education of Florida.

School, public means a use and attendant buildings operated by the Palm Beach County School District for educational or training purposes, as follows:

1. an elementary school;
2. a middle school
3. a high school
4. a vocation or technical school.

School, private means a use and attendant buildings operated by a private organization for educational or training purposes, as follows:

1. an elementary school;
2. a middle school
3. a high school
4. a vocation or technical school.

School Board means the Palm Beach County School Board.

Screen enclosure means a structure, which may or may not be roofed, used to completely enclose an outdoor living space with screening.

Seagrasses means those submerged beds of the genera Halophila, Syringodium, Halodule, Thalassia, and/or the green algae Caulerpa spp.

Sea turtle(s) means any specimen belonging to the species Caretta (loggerhead turtle), Chelonia mydas (green turtle), Dermochelys coriacea (leatherback turtle) or any other marine turtle using Palm Beach County beaches as a nesting habitat.

Sector area means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), the boundaries of the geographic planning area served or impacted by a TND.

Sector area land uses means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), optional land use zones provided to lessen imbalances in employment or services that exist within a sector area.

Security or caretaker quarters mean a residence located on a site for occupancy by a caretaker or security guard.

Seedling, sapling, runner, or sucker means any young plant or tree in early stages of growth.

Self-service storage, limited-access means a multi-storied self-service storage facility, with limited access points from the exterior of the building to interior halls that serve individual bays.

Self-service storage, multi-access means a one story self-service storage facility with multi-access points from the exterior of the building to individual bays.

Semi-public water system means, for the purpose of Sec. 16.2 (Water Supply Systems), a water system for provisions of piped water under pressure for human consumption, culinary, sanitary or domestic purposes to:

1. Less than twenty-five (25) individuals daily at least sixty (60) days out of the year, or
2. At least twenty-five (25) individuals daily less than sixty (60) days out of the year.

Septage means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), a mixture of sludge, fatty material and wastewater removed during the pumping of on-site sewage disposal systems, grease traps, laundry interceptors and portable toilets.

Septic tank means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), a watertight receptacle constructed to promote separation of solid and liquid components of sewage, to provide limited digestion of organic matter, to store solids, and to allow clarified liquid to discharge for further treatment and disposal in a drainfield.

Septic tank system means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), a building sewer, septic tank, distribution box and drainfield. When pump equipment is utilized, it is also considered part of the septic tank system.

Service Provider means any agency that is responsible for the provision of public facilities to development in Palm Beach County.

Service station: See automotive service station.

Service truck means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), a vehicle used to pump out the contents of on-site sewage disposal systems, grease traps, laundry interceptors or portable toilets.

Setback means the required minimum horizontal distance between any structure and the related front, side, or rear property lot line or base building line.

Setback, front means the setback extending along the full length of the front lot line.

Setback, interior side means the setback extending along an interior side lot line between the front and rear setbacks.

Setback, rear means the setback extending along the full length of the rear lot line.

Setback, street side means the setback extending along a street side lot line between the front and rear setbacks.

Sewer system, central means a regional sewerage system, owned and operated by a municipal, county, special district or other governmental entity, which provides sewer service to several developments located within its service area.

Sewer system, individual means a privately owned sewerage system, which provides sewer service to a single development, because of unavailability of a central sewer system.

Shade house means an accessory agricultural structure consisting of a screened enclosure with a screened or roll plastic roof used to protect plants from insects, heat and exposure to the sun.

Shade tree means a tree that reaches a minimum height of fifteen (15) feet at maturity, provides relief from direct sunlight for at least six (6) months each year, and is indicated as a shade tree on the Recommended Tree List.

Shared parking means the approved use of the same off-street parking spaces for two (2) or more distinguishable uses where peak parking demand of the different uses occurs at different times of the day, or where various uses are visited without moving the automobile, and where the provision of parking spaces is a net decrease from the combined total of each use's individual off-street parking requirements if provided separately.

Shooting range, private means a private facility, not used for the general public or commercial purposes, for the discharging of firearms.

Shopping center means a group of commercial establishments planned, developed, managed and operated as a unit, with off-street parking provided on the property, and related in its location, size and type of shops to the trade area which the unit serves.

Shrub means a self-supporting woody perennial plant more than thirty (30) inches in height at maturity, characterized by multiple stems and branches continuous from the base.

Sidewalk, curb or vehicular sign means signs placed on or affixed to vehicles or trailers which are parked on a public right-of-way, public land, or private land so as to be visible from a public right-of-way where the apparent purpose is to advertise a product, service or activity, or direct people to a business or activity located on the same or nearby land.

Sight distance means the extent of unobstructed vision in a horizontal and vertical plane.

Sign means any character, letter, figure, symbol, design or device or combination of these used to attract attention or convey a message and which is visible to any area outside of a building. The term includes banners, pennants, streamers, moving mechanisms and lights.

Sign area means the background area upon which the advertising surface area is placed. Where the advertising surface area is attached directly to the wall of a building that wall shall not be construed to be the background sign area unless it is an integral part of the sign. (For painted wall signs, see surface area).

Sign, flashing means any illuminated sign, which exhibits changes in light or color. Illuminated signs which indicate the time, temperature, weather, or other similar information shall not be considered flashing signs.

Significant archeological value An archaeological site, fossil or artifact which could yield or has yielded information deemed by a qualified archaeologist to be of significant scientific, historical, ethnic or public significance to the history or prehistory of the County, State or Nation.

Single-faced sign means only one side of a double-faced sign.

Single-family means the use of a lot or a structure for one (1) detached dwelling unit, excluding a mobile home but including a manufactured building.

Single-family cluster means a dwelling unit which is part of a cluster of similar dwelling units within a planned development but which is separated from other similar units by common areas dedicated to a property owners' association.

Single-family district means the AR, CRS, RE, RT, RTS, RTU and RS districts, as well as single-family pods of Planned Development districts.

Site-related improvements mean road construction or road improvements at or near the development site which are necessary to interface the development's external trips with the major road network system, or which are necessary to interface the development's internal trips with the major road network system where a portion of the major road network system is included within the development.

Snipe sign means any sign made of any material, including paper, cardboard, wood, and metal, when such sign is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, fences or other objects, and the advertising matter appearing thereon is not applicable to the premises upon which the sign is located.

Soil classification means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), the soil mantle as classified in accordance with the U.S. Department of Agriculture Soil Classification Methodology.

Soil limitation ratings means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), the three rating categories, which are:

1. **Slightly limited** means soils with favorable properties for the use of drainfield systems.
2. **Moderately limited** means soils that have properties moderately favorable for use of a drainfield system. Limitations in this category may be overcome by site alteration involving removal of impervious or too rapidly percolating soil layers, addition of fill, or lowering of high water table through approved drainage methods, or any combination of the above.
3. **Severely limited** means soils which have one(1) or more properties unsuitable for the use of a drainfield system.

Solid waste means garbage, rubbish, refuse, sludge, septage, dewatered domestic wastewater residuals, grit and screenings from a domestic wastewater treatment facility or other discarded solid or liquid material resulting from domestic, commercial, industrial, agricultural activities or governmental operations but does not include storm water discharges or other significant pollutants in water resources such as silt, dissolved or suspended solids in industrial waste water effluent, dissolved materials in irrigation return flows or other common water pollutants.

Solid waste facilities mean the planning of, engineering for, preparation of acquisition documents for, acquisition of land for, or construction of solid waste facilities necessary to meet the LOS for solid waste facilities.

Solid waste transfer station means a facility where solid waste from several relatively small vehicles is placed into one relatively large vehicle before being transferred to a solid waste processing or disposal facility. Solid waste may be sorted but not processed at the transfer station.

Sound level means the weighted sound pressure obtained by use of a metering characteristic with an A-Weighting as specified in the ANSI specifications for sound level meters.

Sound level meter means an instrument that includes a microphone, amplifier, and output meter, and frequency weighting networks for the measurement of noise and sound levels in a manner to meet ANSI standards.

Source property means the land from which the subject sound is originating including public or private streets, sidewalks or other public or open space areas.

Special allocation means the assignment by the Board of County Commissioners of impact fee credits for in-kind contributions to a feepayer, or a portion of a development. It may involve the pro rating of impact fee credits for in-kind contributions.

Specified anatomical areas means less than completely and opaquely covered:

1. Human genitals and pubic region; or
2. The opening between the human buttocks, i.e., the anal cleft; or
3. That portion of the human female breast encompassed within an area falling below the horizontal line one would have to draw to intersect a point immediately above the top of the areola (the colored ring around the nipple); this definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed; or
4. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means:

1. Human genitals in a state of sexual stimulations, arousal or tumescence;
2. Acts of human analingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellation, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sexual intercourse, or sodomy; or
3. Fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast; or
4. Excretory functions as part of or in connection with any of the activities set forth in subsections 1. through 2.

Specimen tree means a tree that substantially contributes to the aesthetics of an area and which is protected through the permitting process, or which attains one-third (33%) or greater of the champion tree diameter at breast height (dbh). A specimen tree may be native or non-native and must be in good health.

Speculative clearing means the clear cutting of a site when no final site plan or approved vegetation management plan has been prepared for the site.

Spent means the commitment of funds to a particular capital facility acquisition by the awarding of a contract.

Spill means the unpermitted release or escape of a Regulated Substance, irrespective of the quantity thresholds identified in the definition of "Regulated Substance," directly or indirectly to soil, surface water or groundwater.

Spillover light means light that is distributed into areas where the illumination is not needed or intended.

Square means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), an outdoor civic tract located within a neighborhood to provide community services and usable open green space.

Square footage means the gross constructed area of all buildings and structures covered by a solid or screened roof and totally or partially enclosed by walls or other material. Nonresidential outdoor areas covered or uncovered which functionally extend the primary use, such as open seating and open retail are included, except that uses which generally completely occur outdoors, such as vehicle or monument sales, nurseries, gasoline sales, salvage yards, and outdoor storage, are not included. Nonresidential canopies and screened enclosures which functionally extend the primary use are included. Decorative canopies or canopies designed to protect from weather are not included. For impact fee purposes of residential development, the square footage means the conditioned area of the building as measured to the outside of the exterior wall. If the residential structure or addition has no conditioned area, square footage shall be the living area of the building as measured to the outside of the exterior wall.

Stable, commercial means an commercial establishment for boarding, breeding, training or raising of horses not necessarily owned by the owners or operators of the establishment, rental of horses for riding, or other equestrian activities, excluding uses classified as equestrian arena.

Stable, private means the care of horses owned by the occupants or owners of the premises.

Stall or berth means the space within which vehicles are placed during actual loading or unloading operations.

Stand for sale of agricultural products means a roadside stand for the retail sale of fruit, vegetables, flowers, and house plants not necessarily grown on the site.

Standard subsurface means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), an on-site sewage disposal system consisting of a treatment receptacle, distribution box and a gravity-fed drainfield installed below the natural ground surface.

State standards for the purpose of Art. 8, Subdivision, Platting and Required Improvements, means the various design and construction guidelines, policies and standards promulgated, and amended, by the departments and agencies of the State, including but not limited to the Policy and Guidelines for Vehicular Connections to Roads on the State Highway Systems, Manual of Uniform Traffic Control Devices for Streets and Highways (as adopted by the Department of Transportation), Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (a/k/a "The Greenbook"), Standard Specifications for Road and Bridge Construction, Roadway and Traffic Design Standards, and Handbook for Drainage Connection Permits.

Storage, agricultural means the storage of equipment or products accessory or incidental to a primary agricultural use.

Stormwater means the flow of water that results from and occurs immediately following a rainfall event.

Stormwater management plan means an engineering drawing and written report outlining the proposed secondary and tertiary stormwater management system needed for the proper development of a specific increment of the unincorporated area of Palm Beach County, including details of drainage-related conditions and characteristics of the existing development site and surrounding lands.

Stormwater management system means a comprehensive system designed and constructed or implemented to collect, convey, store, absorb, inhibit, treat, use or reuse stormwater in order to prevent or reduce inundation, flooding, over-drainage, environmental degradation, and water pollution, or otherwise affect the quantity and quality of stormwater runoff.

Stormwater runoff means that portion of stormwater which occurs either as overland surface flow or subsurface lateral flow through normally unsaturated soils, and which is neither intercepted by vegetation, evaporated, nor recharged to groundwater.

Stormwater system, primary means classified surface waters of the State which convey stormwater runoff toward the ocean or a major inland water body.

Stormwater system, secondary means that component of a stormwater management system which consists of facilities and features designed to provide for treatment and control of stormwater runoff generated by specifically delineated lands, in order to meet regulatory requirements governing the quality and quantity of stormwater discharged to the primary stormwater system.

Stormwater treatment means removal of pollutants, debris, and other undesirable materials from stormwater runoff by means of natural chemical, biological or physical processes, including, but not necessarily limited to, detention, retention, filtration, percolation, sedimentation, floatation, and skimming. This definition does not normally include active treatment processes, requiring the consumption of electrical or mechanical energy.

Stormwater system, tertiary means that component of a stormwater management system which consists of facilities and features designed to provide for rapid removal of stormwater from structures, building sites, streets, and other areas of development or uses sensitive to damage or disruption by inundation.

Story, building means that part of a building between the surface of a floor and the ceiling immediately above. The maximum height shall be fourteen (14) feet measured from the finished floor to the finished ceiling. Attics and raised basements shall not be included in calculations of a building story unless they are used for residential or parking purposes.

Stream means any river, creek, slough, or other natural watercourse whether or not the bed shall have been dredged or otherwise improved in whole or in part.

Street means a strip of land, owned privately or publicly, which affords legal access to abutting land and is designated for vehicular traffic. "Street" includes road, thoroughfare, parkway, avenue, boulevard, expressway, lane, throughway, place, and square, or however otherwise designated. Streets are further classified according to the function they perform.

Street, arterial means a major street of higher classification than a plan collector street, used primarily for traffic traveling considerable distance within or through an area not served by an expressway, of considerable continuity, and used primarily as a main traffic artery.

Street, collector means a street which carries traffic from local streets to arterial streets. Collector streets have more continuity, carry higher traffic volumes and may provide less access than local streets.

Street, collector, non-plan means a collector street which is not included on the Thoroughfare Plan and which is the highest classification of minor street.

Street, collector, plan means a collector street which is part of the Thoroughfare Plan, and which is the lowest classification of major street.

Street, dead-end means a street with only one (1) outlet.

Street, limited access means a street to which access from abutting property is under the control and jurisdiction of the county pursuant to a limited access easement or other regulatory access restriction.

Street, local means a street designed and maintained primarily to provide legal and vehicular access to abutting land. A local street is of limited continuity, is not for through traffic, and is the middle order street of minor streets, being of a higher classification than a residential access street.

Street, major means a street depicted on the adopted thoroughfare plan; a thoroughfare plan road. Major streets are further classified as collector street, arterial street, and expressway.

Street, marginal access means a special purpose local street which is parallel and adjacent to a plan collector street, expressway, arterial street or other limited access street and which has its principal purpose of relieving such streets from local service of abutting property by providing access to abutting property and separation from through traffic. A marginal access street may also be called a "frontage street".

Street, minor means any street not classified as a major street, and includes streets providing traffic circulation within the development.

Street, private means any street which:

1. Has not been dedicated for public use;
2. Is reserved to a property owners' association pursuant to recorded restrictions and covenants or a plat of record; or
3. Is dedicated for public use but has not been accepted for maintenance by the County, another local governmental entity, the State or a special district.

Street, residential access means the lowest order of minor street which is intended to carry the least amount of traffic at the lowest speed.

Street, through means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), a street that serve more than one neighborhood, or that carries traffic between neighborhood propers.

Street frontage see lot frontage.

Streetedge means, for the purpose of Sec. 6.8.C.(Traditional Neighborhood Development District), a buffer used to define and continue a residential frontage line along the unbuilt portion of a lot.

Streetwall means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), a wall or fence creating a visual buffer built on and along a nonresidential lot frontage line.

Structure means that which is three feet or more in height, built or constructed or erected or tied down having a fixed location on the ground or attached to something having a permanent location on the ground, such as buildings, homes, mobile homes, towers, walls, fences, billboards, shore protection devices, and poster panels.

Subdivision means the division of land, whether improved or unimproved, whether previously platted or not, into two (2) or more contiguous lots for the purpose, whether immediate or future, of transfer of ownership. The term shall include any modification of legal boundaries for the purpose of redividing or combining any lot(s) depicted on a record plat, or on a certified survey or other map recorded pursuant to an affidavit of exemption or affidavit of waiver. When appropriate to the text, the term refers to the process of subdividing or the land proposed to be or which has been subdivided.

Substantial change in land use means either (1) a change in land use or site design that increases the intensity of land use, (2) a change in land use or site design that creates or increases incompatibility of adjacent land uses, or (3) an increase in the total floor area of multiple-family dwellings or nonresidential buildings which results in increased traffic.

Substantial improvement means any combination of repairs, reconstruction or improvement of a structure, where the improvement creates additional enclosed space that contains equipment or utilities relative to the primary structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any development for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications that are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Place.

Sugar mill or refinery means an establishment for the extraction and refining of sugar from agricultural products.

Superintendent means the Superintendent of the Palm Beach County School Board.

Supplier of water means, for the purpose of Sec. 16.2 (Water Supply Systems), any person who owns or operates a water supply system.

Surface area (of a sign) means the actual area of the letters or symbols applied to a background. For computation purposes, straight lines forming a regular polygon shall be drawn tangent to the extremities of the copy or graphics, encompassing all individual letters or symbols.

Surface water means water upon the surface of the earth whether contained within natural or artificial boundaries or diffused.

Surveyor means a land surveyor registered in the State of Florida.

Suspension Order means suspension of construction work directly over the potential archaeological find. During the initial site visit, a qualified archaeologist may extend the boundary of the suspension order based on the potential significance and geographic coverage of the find.

Swale means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), a stabilized and graded depression designed to convey stormwater runoff and retain water for only a brief period following a rainfall event.

Swimming pool means any confined body of water, located either above or below the existing finished grade of the site, exceeding one hundred fifty (150) square feet in surface area, and two (2) feet in depth, designed, used, or intended to be used for swimming or bathing purposes.

Temporary means a single period or an accumulation of periods not exceeding ninety (90) days in any 365-day period unless further restricted.

Temporary sign means any sign erected and maintained for a specified length of time.

Theater, drive-in means an establishment for the outdoor viewing of motion pictures by patrons while in their automobiles.

Theater, indoor means an establishment for showing motion pictures or live performances in an enclosed theater.

Thoroughfare plan, thoroughfare right of way protection map or plan means that which is described in the Traffic Circulation Element of the Comprehensive Plan, III; Existing Conditions; D; Thoroughfare Right of Way Protection Map.

Through street see Street, through.

Tinted glass shall mean any window which has:

1. A visible light transmittance value of forty-five (45) percent or less;
2. A minimum five (5) year warranty; and
3. Performance claims which are supported by approved testing procedures and documentation.

Too numerous to count (TNTC) means, for the purpose of Sec. 16.2 (Water Supply Systems), equal to or greater than two hundred (200) non-coliform bacteria per one hundred (100) milliliters of sample.

Topping means undesirable pruning practices resulting in internodal cutting back of branches with little regard to the natural shape of the tree.

Towing service and storage means the use of a lot for the temporary storage of operable or inoperable vehicles in conjunction with a commercial towing service, with no sales or repair or salvage activity occurring on the lot.

Town center means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), an optional sector area land use zone intended to provide an appropriate location for shopfront land uses that are more intensive in size than neighborhood shopfront uses.

Townhouse means a dwelling unit located on an individual lot and attached by at least one but no more than two (2) party wall(s) along fifty percent (50%) of the maximum depth of the unit, to one (1) or more other dwelling units; has a continuous foundation; each on its own lot, with said party wall(s) being centered on the common property line(s) between adjacent lots.

Trailer coach shall have the meaning ascribed by the statutes of the State of Florida providing for the regulation, registration, licensing and recordation of ownership of motor vehicles in the State of Florida. The term shall also include all types of mobile homes and those types of self-propelled trucks or buses that have been converted or equipped with living or sleeping quarters, such as pick-up trucks with sleeping quarters installed, and converted buses. This definition shall exclude suburban, passenger vans and other types of automobiles for private use that have been equipped with camping equipment.

Transportation facility means a facility for loading, unloading, and interchange of passengers, baggage, and freight or package express between modes of transportation. Typical uses include bus terminals, railroad stations and yards, and major mail-processing centers.

Transportation transfer facility (distribution) means an establishment providing for the transfer of transportation or other motorized vehicles, but not involving vehicle sales or rental (retail or wholesale). Typical uses include the transfer of automobiles, trucks, heavy equipment, or other motorized vehicles prior to distribution to retail dealers.

Transient occupancy means residential occupancy when it is the intention of the parties that the occupancy will be for less than one (1) month.

Treatment receptacle means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), that part of an on-site sewage disposal system which provides treatment of sewage prior to its disposal into a drainfield.

Tree means a woody perennial plant commonly with a single four (4) foot clear stem having a more or less defined crown, that usually grows to at least fifteen (15) feet in height at maturity.

Tree survey means a comprehensive survey document or site plan that provides the following information for trees greater than four (4) inches diameter at breast height (dbh), or palm trees with an overall height of eight (8) feet, that delineates the location and identifies the species of trees and vegetation upon a lot, and that meets the tree survey requirements of Sec. 7.3 (Landscaping and Buffering). The Department shall determine the applicability and the extent of each survey. The survey shall provide the following information:

1. The surveyed location, by a Florida licensed land surveyor, in relation to all proposed development, of all existing trees that are proposed to be destroyed, relocated or preserved.
2. The common and scientific name of each tree.
3. The diameter at breast height (DBH) of each tree, or, if a multiple trunk tree, the sum of the DBH of all trunks.

Trip means a one-way movement of vehicular travel from an origin (one trip end) to a destination (the other trip end).

Trip generation means the attraction or production of trips caused by a given type of land development.

Truck shall have the meaning ascribed by the statutes of the State of Florida providing for the regulation, registration, licensing and recordation of ownership of motor vehicles in the State of Florida.

Ultimate right-of-way means an area set aside for future road widening or used as means of ingress, egress or approach as determined by the Department of Transportation, the Office of the County Engineer, the Board of County Commissioners, or by this Code whichever provides the widest right-of-way.

Understory means the structural, component of a forest community below the canopy and above the ground layer composed of a complex of woody, fibrous or herbaceous plant species.

Unincorporated area for the purposes of Art. 10, Impact Fees, means all of the area within the boundaries of Palm Beach County, Florida not within the boundaries of any municipality. For the purposes of park impact fees it excludes the Boca District.

Unincorporated area (law enforcement) for the purposes of Art. 10, Impact Fees, means the unincorporated area of Palm Beach County and the municipalities of Cloud Lake, Golfview, Haverhill, Glen Ridge and Village of Golf.

Unit means a building or portion of a building, or a mobile home used primarily for human habitation purposes with separate bathing, cooking and/or dining facilities. In the case of a hotel or motel, or a congregate living facility, it shall mean the room and bathrooms.

Unity of control means a covenant stipulating that a lot, lots, or project with different owners shall be developed according to a common site or master plan providing unified control and the combined lots shall meet land development requirements as if they are one (1) lot.

Unity of title means a document recorded in the office of the Clerk of the Circuit Court of Palm Beach County stipulating that a lot, lots or parcel of land shall be held under single ownership, shall not be eligible for further subdivision and shall not be transferred, conveyed, sold or divided in any unit other than in its entirety.

Unmarked human burial means any human skeletal or fossilized remains discovered during any land development activity or archaeological excavation.

Unobstructed land means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), those areas on a lot or property not used for such purposes as pools, concrete slabs, buildings, driveways, parking, tennis courts, and similar areas which would prohibit, hinder or affect the installation, operation and/or maintenance of an on-site sewage disposal system.

Upholstery shop means an establishment engaged in furniture repair and reupholstery.

Urban services area means that portion of the unincorporated area of Palm Beach County designated as the "Urban Services Area" by the Palm Beach County Comprehensive Plan, as such area may change from time to time, pursuant to the procedures set forth within said plan.

Usable open green space means, for the purpose of Sec. 6.8.C (Traditional Neighborhood Development District), pervious, vegetated areas in edge areas, parks and squares. This open space can be used for passive or active recreation. However, credit shall not be given for road right-of-ways, building setback areas, impervious surface courts (tennis, basketball, handball, etc.), swimming pools, or any pervious green area not intended for passive or active recreation.

Use means any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

Use, accessory means a permitted use that is customarily associated with the principal use and clearly incidental to the principal use and is subordinate in area, extent, or purpose to and serves only the principal use.

Use, principal means the primary and major purpose for which land or building is used as allowed by the applicable zoning district.

Utility means a government or franchised provider of water, sewer, electric, gas, phone, cable television, or similar service.

Utility easement see easement, utility.

Utility, minor means elements of utility distribution, collection, or transmission networks, other than electrical generation and transmission voltage facilities, required by their nature to be relatively dispersed throughout the service area. Typical uses include gas and water regulations, electrical distribution substations, sewage lift stations, and telephone exchange buildings and substations.

Valid means, for the purposes of Article 10, Impact Fees, a development order or other authorization which was legally issued, and that has not expired, lapsed, or been abandoned, revoked, or canceled; or is not subject to such by the passage of time or the conduct of the owner or developer, and on which or for which all conditions of approval are satisfied that must be satisfied by the terms or conditions of approval.

Value means, in the case of land, the appraised value as determined by an appraiser from a list of approved appraisers of Palm Beach County. In the case of improvements to real property or chattel, it means the actual cost to the feepayer or developer of such improvements or chattel. In all cases, the values shall be established in or as if in an arm's length, bona fide transaction in a competitive market between a willing seller and a willing buyer, neither of whom are under any special circumstances, as approved by the Impact Fee Coordinator based upon the standards in Art. 10, Impact Fees. If the Impact Fee Coordinator rejects an appraised value, the Impact Fee Coordinator may obtain another appraisal using an appraiser from the approved list, in which case that appraisal shall prevail.

Variance means an abatement of the terms of the Unified Land Development Code for a use, where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Code would result in unnecessary and undue hardship.

Vegetation, native means any plant species with a geographic distribution indigenous to all or part of the State of Florida. Plant species which have been introduced by man are not native vegetation.

Vegetation, protected means all vegetation other than:

1. Prohibited plant species; or
2. Vegetation excluded from protection by Sec. 7.5 Vegetation Preservation and Protection.

Vegetation removal means:

1. The actual extraction of vegetation; or
2. Direct or indirect actions resulting in the effective removal of vegetation through damaging or poisoning; or
3. Similar actions directly or indirectly resulting in the death of vegetation.

Vegetation required to be preserved by law means areas of vegetation which are clearly delineated on a Site Plan/Plat, or in some other legally binding manner based upon which the lot area is being preserved.

Vehicle inspection center means an establishment engaged in vehicle inspection or the testing of motor vehicle emissions, but not engaged in any vehicle repair.

Vehicle sales and rental means an establishment engaged in the retail or wholesale sale or rental, from the premises, of motorized vehicles or equipment or mobile homes, along with incidental service or maintenance. Typical uses include new and used automobile sales, automobile rental, boat sales, boat rental, mobile home, manufactured housing and recreational vehicle sales, construction equipment rental yards, moving trailer rental, and farm equipment and machinery sales and rental.

Vehicular sign means a sign affixed to or painted onto a transportation vehicle or trailer, for the purposes of business advertising; however, or vehicular sign shall not include signs affixed to vehicles or trailers for identification purposes or signs required by licensing ordinances.

Vehicular use area means either: (1) an area designed or used for off-street parking; or (2) an area used for loading, circulation, access, storage, or display of motor vehicles. Designated parking areas on public or private streets shall not be considered a vehicular use area.

Vehicular use area, specialized means an area designed for storage of vehicles in operative condition, or for warehousing, transportation or trucking operations, and which is not open to the general public.

Vested means vested pursuant to the application of Florida law.

Veterinary clinic means an establishment engaged in providing medical care and treatment for animals.

Vine means a plant with a flexible stem which normally requires support to reach mature form.

Violator means a person who has been ordered by Code Enforcement to correct a violation.

Vocational school means an establishment, for profit or not, offering regularly scheduled instruction in technical, commercial, or trade skills such as, but not limited to business, real estate, building and construction trades, electronics, computer programming and technology, automotive and aircraft mechanics and technology, or other types of vocational instruction.

Wall sign means any sign affixed to the building which shall not extend beyond the peak of the roof at the location of the sign. Wall graphics, murals and art work are considered as signs and shall be included when calculating the total permitted square footage.

Warehousing means an establishment engaged in the storage of materials, equipment, or products within a building for manufacturing use or for distribution to wholesalers or retailers, as well as activities involving significant movement, breaking of bulk and storage of products or equipment. Typical uses include motor freight transportation, moving and storage facilities, cold storage, warehousing and dead storage facilities, but exclude self-service storage facilities and office-warehouse combinations.

Waste means discarded material including but not limited to garbage, rubbish, yard trash, litter, non-combustible refuse and industrial wastes.

Wastewater residuals means the solid, semisolid, or liquid residue removed during the treatment of municipal wastewater. Not included is the treated effluent or reclaimed water from domestic wastewater treatment plant.

Wastewater residuals (Dry) means domestic wastewater residuals that contain sixty five percent (65%) solids or greater, by weight.

Wastewater treatment facility means a facility designed for treatment and disposal of more than five thousand (5,000) gallons per day of wastewater, including large regional plants and above ground package treatment facilities.

Water management tract means a parcel of land under single ownership, identified and created as a single unit on a plat or other instrument of record, established for the purpose of delineating a complete facility or unified area to be utilized for detention, retention, or groundwater recharge of stormwater runoff prior to discharge from a development site.

Water supply system or Water supply facility or Water system or Water facility means, for the purpose of Sec. 16.2 (Water Supply Systems), any or all works and auxiliaries for collection, treatment, storage and distribution of water from the source or sources of supply to the consumer or processing plants including ice-making vending machines and bottled water plants.

Water system, central means a regional water supply system owned and operated by municipal, county, special district or other governmental entity, which provides water service to several development located within its service area.

Water system, individual means a privately owned water supply system which provides water service to a single development because of unavailability of a central water system.

Water table elevation means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), the upper surface of the groundwater or that level below which the soil or underlying rock material is saturated with water. Water table elevation is measured from the soil surface down or up to the free water level.

Water treatment facility means a facility designed for treatment of ground or surface water for potable and sanitary purposes, with a design capacity of more than ten thousand (10,000) gallons per day.

Water well means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), a source of water used for drinking, culinary, sanitary and other domestic purposes. The following classifications of wells are used in this Section:

1. **Private well** means a well used to provide water only for residential purposes and serving no more than four (4) dwelling units;
2. **Semi-public well** means a well used to provide water for:
   a. Less than twenty-five (25) individuals daily at least sixty (60) days out of the year, or
   b. At least twenty-five (25) individuals daily less than sixty (60) days out of the year;
3. **Non-community well** means a well used to provide water to at least twenty -five (25) individuals daily at least sixty (60) days out of the year but is not a community water system;
4. **Community water well** means a well used to provide water to at least fifteen (15) service connections used by year-round residents or which regularly serves at least twenty-five (25) year-round residents;
5. **Non-potable well** means a well intended exclusively for irrigation purposes, or for supplying water to a heat pump system or a well for receiving discharge water from a heat pump system;

Watercourse means any stream, canal, ditch, or other natural or artificial channel in which water normally flows within a defined bed, banks, or other discernible boundaries, either continuously or seasonally, whether or not such flow is uniform or uninterrupted.

Waters of the state means waters, as defined in Sec. 403.031(12), Fla. Stat., subject to compliance with State Water Quality Standards adopted pursuant to Chapter 403, Fla. Stat., and set forth in Chapter 17-3, F.A.C.

Watershed means the land area which contributes to the total flow of water entering a receiving stream or water body.

Weighted sound pressure level means the sound pressure level as measured with a sound level meter using the A-Weighting Network. The standard notation is Db(A) or DBA.

Well means, for the purpose of Sec. 16.2 (Water Supply Systems), any opening in the ground designed to conduct water from a ground water supply to the surface by pumping or natural flow when water from such opening is used or is to be used for a drinking water supply system or irrigation purposes.

Wellfield means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), an area of land which contains more than one (1) potable well that is designed for a pumping rate of at least one hundred thousand (100,000) gallons per day.

Wellfield Zones 1 and 2 means zones of influence delineated by iso-travel time contours around public water supply wellheads. Zone 1 is identified as the land area within a thirty (30) day travel time and Zone 2 is the land area within a two hundred ten (210) day travel time. Zones of influence maps, including zones 3 and 4 are developed pursuant to the Wellfield Protection Section and are on file and maintained by ERM Department.

West County Agricultural Area (WCAA) means that area roughly bounded by Lake Okeechobee, Palm Beach County/Hendry County Line, South Florida Water Management District Levees L-4, L-5, L-6, L-7 and L-8 and is the agriculture production designation on the land use map of the land use element of the comprehensive plan, also known as the Everglades Agricultural Area (EAA).

Wet detention/retention means detention or retention in a storage facility not designed, constructed, and operated so as to provide dry detention/retention.

Wetland means any persistent or intermittent water body or area characterized by the dominance of those submerged or transitional wetland species listed in the Florida Administrative Code, Rule 17-301 or located within or up to three (3) miles directly offshore of Palm Beach County. Dominance shall be defined in accordance with Florida Administrative Code Rule 17-301 and shall be determined in the appropriate plant stratum (canopy, subcanopy, or ground cover) as outlined in Florida Administrative Code Rule 17-301.

Wettest season means, for the purpose of Sec. 16.1 (On-Site Sewage Disposal Systems), that period of time each year in which the groundwater table elevation can normally be expected to be at its highest elevation.

Wholesaling, general means an establishment engaged in the display, maintaining inventories of goods,storage, distribution and sale of goods to other firms for resale, or the supplying of goods to various trades such as landscapers,construction contractors, institutions, industries, or professional businesses. In addition to selling, wholesale establishments sort and grade goods in large lots, break bulk and redistribute in smaller lots, delivery and refrigeration storage,but excluding vehicle sales, wholesale greenhouses or nurseries, wholesale of gas and fuel, and wholesale building supplies.

Wildlife corridor means a continuous corridor of habitat, with a width of at least one mile, that is established by linking conservation areas, wildlife preserves, sanctuaries, refuges, parks, open space areas, and agricultural areas to provide a pathway for wildlife movement.

Window sign means any sign, picture, symbol, or combination thereof, designed to communicate information about an activity business, commodity, event, sale or service, that is placed inside a window or upon the window.

Wood or lumber processing means an establishment engaged in the production of lumber or similar building material products from wood.

Woodworking or cabinetmaking means an establishment engaged in the production of finished products from wood.

Work means all required construction as shown on approved construction plans and specifications for all facilities and features of any kind which are required, related to the process of subdivision of land under Art. 8, Subdivision, Platting and Required Improvements.

Yard see Setback.

Zero lot line home means the use of a lot for one (1) detached dwelling unit with at least one (1) wall, but not more than two (2) walls or a portion thereof, located directly adjacent to a side lot line, excluding a mobile home but including a manufactured building.

Zones of Influence means zones delineated by iso-travel time contours and the one (1) foot drawdown contour within cones of depression of wells which obtain water from the unconfined or surficial aquifer system. These zones are calculated, based on the rate of movement of groundwaters in the vicinity of wells at a specified pumping rate.

Zones of Influence Maps mean aerial photographs at scales determined by the Department showing the locati on the ground of the outer limits of Zones of Influence for present and future public potable water supply we and wellfields permitted for 100,000 gallons per day or more.

Zoning Director of PZB means the division head of the Palm Beach County Zoning Division.

Zoo means a place where animals are kept in captivity for the public to view.

[Ord. No. 93-4; February 2, 1993] [Ord. No. 93-17; July 20, 1993] [Ord. No. 94-9; May 3, 1994] [Or No. 94-23; October 4, 1995] [Ord. No. 95-1; January 17, 1995] [Ord. No. 95-8; March 21, 1995] [Ord. N 95-24; July 11, 1995]

SEC. 3.3 ABBREVIATIONS AND ACRONYMS.

AADT	Average annual daily traffic
AASHTO	American Association of State Highway and Transportation Officials
ACLF	Adult Congregate Living Facility
ADT	Average daily trips
ANSI	American National Standards Institute
BofA	Board of Adjustment
BCC	Board of County Commissioners
CEB	Code Enforcement Board
CIE	Capital Improvement Element
CO	Certificate of Occupancy
CRA	Community Redevelopment Association
CRALLS	Constrained Road At A Lower Level of Service
CTF	Citizens Task Force
Db	Decibel
dbh	Diameter at breast height
DEPW	Department of Engineering and Public Works
DRAB	Development Review Appeals Board
DRC	Development Review Committee
DRI	Development of Regional Impact
EAA	Everglades Agricultural Area
EAC	Economic Activity Center
ECR I	Palm Beach County Environmental Control Rule I (On-Site Sewage Disposal Systems)
ECR II	Palm Beach County Environmental Control Rule II (Water Supply Systems)

ABBREVIATIONS AND ACRONYMS (cont).

ERM	Environmental Resource Management Department
ESL	Environmentally Sensitive Land
ESLO	Environmentally Sensitive Lands Ordinance
F.A.C.	Florida Administrative Code
FAR	Floor area ratio
FIRM	Flood Insurance Rate Map
FDER	Florida Department of Environmental Regulation
FDOT	Florida Department of Transportation
FHBM	Flood Hazard Boundary Map
Fla. Stat.	Florida Statutes
GOPs	Goals, Objectives and Policies of the Comprehensive Plan.
LUAB	Land Use Advisory Board
LOS	Level of Service
MAI	Member of the Appraiser's Institute
MPO	Metropolitan Planning Organization
NGVD	National Geodetic Vertical Datum
OHW	Ordinary High Water
OLW	Ordinary Low Water
PBC	Palm Beach County
PBIA	Palm Beach International Airport
PBCPHU	Palm Beach County Public Health Unit

ABBREVIATIONS AND ACRONYMS (cont).

PUD	Planned Unit Development
PZB	Planning Building and Zoning Department
SF	Single Family
SFWMD	South Florida Water Management District
SIC	Standard Industrial Code
SP/STPZ	Sand Preservation/Sea Turtle Protection Zone
SPRC	Site Plan Review Committee
TAP-O	Turnpike Aquifer Protection Overlay District
TCMA	Transportation Concurrency Management Areas
TCRPC	Treasure Coast Regional Planning Council
TDR	Transfer of Development Rights
TND	Traditional Neighborhood Development
tntc	Too numerous to count
TPS	Traffic Performance Standards
USA	Urban Services Area
v/c	Volume to capacity
VDBP	Voluntary Density Bonus Program
VPPO	Vegetation Preservation and Protection Ordinance
WCAA	West County Agricultural Area
WPZ	Wellfield Protection Zones
ZLL	Zero lot line

[Ord. No. 95-8; March 21, 1995]

ARTICLE 4.

DECISIONMAKING, ADMINISTRATIVE AND ENFORCEMENT BODIES

TABLE OF CONTENTS

ARTICLE 4.
DECISIONMAKING AND ADMINISTRATIVE BODIES

Page

SEC. 4.1 BOARD OF COUNTY COMMISSIONERS 1
A. Powers and duties 1

SEC. 4.2 LAND USE ADVISORY BOARD 2
A. Establishment 2
B. Powers and duties 2
C. Board membership 3
1. Qualifications 3
2. Appointment 3
3. Terms of office 3
4. Removal from office 4
5. Vacancy 4
6. Conflict of Interest 4
D. Officers; quorum; rules of procedure 5
1. Chair and vice-chair 5
2. Secretary 5
3. Staff 5
4. County attorney. 6
5. Quorum and voting 6
6. Rules of procedure 6
7. Additional rules applicable to Local Planning Agency. 6
E. Meetings 6
1. General 6
2. Location 6
3. Continuance 6
4. Meetings open to public 6
5. Notice 6
6. Annual Report 7
F. Compensation 7

SEC. 4.3 ZONING COMMISSION. 7
A. Establishment 7
B. Powers and duties 7
C. Commission membership 8
1. Qualifications 8
2. Appointment 8
3. Terms of office 8
4. Removal from office 9

5. Vacancy 9
6. Conflict of Interest 9
D. Officers; quorum; rules of procedure 10
1. Chairman and vice-chairman 10
2. Secretary 10
3. Staff 10
4. County attorney. 11
5. Quorum and voting 11
E. Meetings 11
1. General 11
2. Location. 11
3. Continuance 11
4. Meetings open to public 11
5. Notice 11
6. Annual Report 11
F. Compensation 11

SEC. 4.4 DEVELOPMENT REVIEW COMMITTEE. 12
A. Establishment 12
B. Powers and duties 12
C. Committee membership 12
D. Officers; quorum; rules of procedure 13
1. Chairman and vice-chairman 13
2. Secretary 13
3. Staff 13
4. County attorney. 13
5. Quorum and certification 14
6. Rules of procedure 14
7. Appeal. 14
E. Meetings 14
1. General 14
2. Location 14
3. Continuance 14
4. Meetings open to public 14
5. Notice 14
F. Compensation 14

SEC. 4.5 BOARD OF ADJUSTMENT. 14
A. Establishment 14
B. Powers and duties 14
C. Board membership 15
1. Qualifications 15
2. Appointment 15
3. Terms of office 15
4. Removal from office 16
5. Vacancy 16
6. Conflict of Interest 16

D. Officers; quorum; rules of procedure 17
1. Chairman and vice-chairman 17
2. Secretary 18
3. Staff 18
4. County attorney. 18
5. Quorum and voting 18
E. Meetings 18
1. General 18
2. Location 18
3. Continuance 18
4. Meetings open to public 18
5. Notice 19
6. Annual Report 19
F. Compensation 19

SEC. 4.6 TRAFFIC PERFORMANCE STANDARDS APPEALS BOARD. 19
A. Establishment 19
B. Powers and Duties 19
C. Board Membership 19
1. Qualifications 19
2. Appointment 19
3. Terms of office 19
4. Removal from office 20
5. Vacancy 20
6. Conflict of Interest 20
D. Officers 21
1. Chairman and vice-chairman 21
2. Secretary 21
3. Staff 21
4. County attorney. 21
5. Quorum and voting 21
E. Meetings 22
1. General or special meetings 22
2. Location 22
3. Continuance 22
4. Meetings open to public 22
5. Notice 22
6. Annual Report 22
F. Compensation. 22

SEC. 4.7 DEVELOPMENT REVIEW APPEALS BOARD 22
A. Establishment 22
B. Powers and duties 22
C. Board membership 23
D. Officers; quorum; rules of procedure 23
1. Chairman and vice-chairman 23
2. Staff 23

3. County attorney. 23
4. Quorum and voting 23
5. Rules of procedure 23
E. Meetings 24
1. General 24
2. Location 24
3. Continuance 24
4. Meetings open to public 24
5. Notice 24
F. Compensation 24

SEC. 4.8 IMPACT FEE REVIEW COMMITTEE 24
A. Establishment 24
B. Powers and duties 24
C. Board Membership 25
1. Qualifications 25
2. Appointment 25
3. Terms of office 25
4. Removal from office 25
5. Vacancy 26
6. Conflict of Interest 26
D. Officers 27
1. Chairman and vice-chairman 27
2. Secretary 27
3. Staff 27
4. County attorney. 27
5. Quorum and voting 27
E. Meetings 28
1. General or special meetings 28
2. Location 28
3. Continuance 28
4. Meetings open to public 28
5. Annual Report 28
F. Compensation. 28

SEC. 4.9 IMPACT FEE APPEALS BOARD 28
A. Establishment 28
B. Powers and duties 28
C. Board membership 29
1. Qualifications 29
2. Appointment 29
3. Terms of office 29
4. Removal from office 29
5. Vacancy 30
6. Conflict of interest 30
D. Officers; quorum; rules of procedure 31

1. Chairman and vice-chairman . . . 31
2. Secretary . . . 31
3. Staff . . . 31
4. County attorney. . . . 31
5. Quorum and voting . . . 31
E. Meetings . . . 32
1. General . . . 32
2. Location . . . 32
3. Operating procedures . . . 32
4. Continuance . . . 32
5. Meetings open to public . . . 32
6. Notice . . . 32
F. Compensation . . . 32

SEC. 4.10 ENVIRONMENTAL APPEALS BOARD . . . 33
A. Establishment . . . 33
B. Powers and Duties . . . 33
C. Board Membership . . . 33
1. Qualifications . . . 33
2. Appointment . . . 33
3. Terms of office . . . 33
4. Removal from office . . . 33
5. Vacancy . . . 34
6. Conflict of interest . . . 34
D. Officers . . . 35
1. Chairman and vice-chairman . . . 35
2. Secretary . . . 35
3. Staff . . . 35
4. County attorney. . . . 35
5. Quorum and voting . . . 36
E. Meetings . . . 36
1. General or special meetings . . . 36
2. Location . . . 36
3. Continuance . . . 36
4. Meetings open to public . . . 36
5. Notice . . . 36
6. Annual Report . . . 36
F. Compensation. . . . 36

SEC. 4.11 ENVIRONMENTAL ORDINANCE APPEALS BOARD. . . . 37
A. Establishment . . . 37
B. Powers and Duties . . . 37
1. Qualifications . . . 37
2. Appointment . . . 37
3. Terms of office . . . 37
4. Removal from office . . . 38
5. Vacancy . . . 38

6. Conflict of interest 38
D. Officers 39
1. Chairman and vice-chairman 39
2. Staff 39
3. County attorney. 40
4. Quorum and voting 40
E. Meetings 40
1. General or special meetings 40
2. Location 40
3. Continuance 40
4. Meetings open to public 40
5. Notice 40
6. Annual Report 40
F. Compensation. 40

SEC. 4.12 ENVIRONMENTAL CONTROL HEARING BOARD 41
A. Establishment 41
B. Powers and Duties 41
C. Board Membership 41
1. Qualifications 41
2. Appointment 42
3. Terms of office 42
4. Removal from office 42
5. Vacancy 42
6. Conflict of interest 43
D. Officers 44
1. Chairman and vice-chairman 44
2. Secretary 44
3. Staff 44
4. County attorney. 44
5. Quorum and voting 44
E. Meetings 45
1. General or special meetings 45
2. Location 45
3. Continuance 45
4. Meetings open to public 45
5. Notice 45
6. Annual Report 45
F. Compensation. 45

SEC. 4.13 GROUNDWATER AND NATURAL RESOURCES PROTECTION BOARD. 45
A. Establishment 45
B. Powers and duties 45
C. Board membership 46
1. Qualifications 46
2. Appointment 46

3. Terms of office . . . 46
4. Removal from office . . . 47
5. Vacancy . . . 47
6. Conflict of interest . . . 47
D. Officers; quorum; rules of procedure . . . 48
1. Chairman and vice-chairman . . . 48
2. Secretary . . . 48
3. Staff . . . 49
4. County attorney. . . . 49
5. Quorum and voting . . . 49
E. Meetings . . . 49
1. General . . . 49
2. Location . . . 49
F. Operating procedures . . . 49
1. Continuance . . . 49
2. Meetings open to public . . . 49
3. Notice . . . 49
4. Annual Report . . . 50
G. Compensation . . . 50

SEC. 4.14 CODE ENFORCEMENT BOARD . . . 50
A. Establishment . . . 50
B. Powers and duties . . . 50
C. Board membership . . . 51
1. Qualifications . . . 51
2. Appointment . . . 51
3. Terms of office . . . 51
4. Removal from office . . . 51
5. Vacancy . . . 52
6. Conflict of Interest . . . 52
D. Officers; quorum; rules of procedure . . . 53
1. Chairman and vice-chairman . . . 53
2. Staff . . . 53
3. County attorney. . . . 53
4. Quorum and voting . . . 53
E. Meetings . . . 54
1. General . . . 54
2. Location . . . 54
3. Operating procedures . . . 54
4. Continuance . . . 54
5. Meetings open to public . . . 54
6. Notice . . . 54
7. Annual Report . . . 54
F. Compensation . . . 54

SEC. 4.15 HEARING OFFICER . . . 55
A. Creation and appointment . . . 55

B. Minimum qualifications 55
C. Duties 55

SEC. 4.16 CITIZENS TASK FORCE. 55
A. Establishment 55
B. Powers and duties 56
C. Board membership 56
1. Qualifications 56
2. Appointment 56
3. Terms of office 56
4. Removal from office 57
5. Vacancy 57
6. Conflict of Interest 57
D. Officers; quorum; rules of procedure 58
1. Chairman and vice-chairman 58
2. Secretary 59
3. Staff 59
4. County attorney. 59
5. Quorum and voting 59
6. Rules of procedure 59
E. Meetings 59
1. General 59
2. Location 59
3. Continuance 59
4. Meetings open to public 59
5. Notice 59
6. Annual Report 59
F. Compensation 60

SEC. 4.17 COUNTY ADMINISTRATOR. 60
A. Creation and appointment. 60
B. Jurisdiction, authority and duties. 60

SEC. 4.18 EXECUTIVE DIRECTOR OF PLANNING, ZONING AND BUILDING DEPARTMENT 60
A. Creation and appointment 60
B. Jurisdiction, authority and duties 60

SEC. 4.19 PLANNING DIRECTOR OF PZB 61
A. Creation and appointment 61
B. Jurisdiction, authority and duties 61

SEC. 4.20 ZONING DIRECTOR OF PZB. 61
A. Creation and appointment. 61
B. Jurisdiction, authority and duties. 61

SEC. 4.21 BUILDING DIRECTOR OF PZB. 62
A. Creation and appointment 62
B. Jurisdiction, authority and duties 62

SEC. 4.22 CODE ENFORCEMENT DIRECTOR OF PZB 63
A. Creation and appointment 63
B. Jurisdiction, authority and duties 63

SEC. 4.23 IMPACT FEE COORDINATOR. 63
A. Creation and appointment 63
B. Jurisdiction, authority and duties 63

SEC. 4.24 COUNTY ENGINEER 64
A. Creation and appointment 64
B. Jurisdiction, authority and duties 64

SEC. 4.25 DIRECTOR OF LAND DEVELOPMENT DIVISION OF DEPW 64
A. Creation and appointment 64
B. Jurisdiction, authority and duties 64

SEC. 4.26 DIRECTOR OF ERM. 65
A. Creation and appointment 65
B. Jurisdiction, authority and duties 65

SEC. 4.27 COUNTY HEALTH DIRECTOR 65
A. Creation and appointment 65
B. Jurisdiction, authority and duties 66

SEC. 4.28 COUNTY ATTORNEY 66

SEC. 4.29 DIRECTOR OF PARKS AND RECREATION. 66
A. Creation and appointment. 66
B. Jurisdiction, authority and duties. 66

SEC. 4.30 HISTORIC RESOURCES REVIEW BOARD. 67
A. Establishment. 67
B. Powers and Duties. 67
C. Board Membership. 69
1. Qualifications. 69
2. Appointment. 69
3. Terms of Office. 69
4. Removal from Office. 69
5. Vacancy. 70
6. Conflict of Interest. 70
D. Officers; Quorum; Rules of Procedure. 71
1. Chairman and Vice-Chairman. 71
2. Secretary. 71

3. Staff. 71
4. County Attorney. 71
5. Quorum and Voting. 71
6. Rules of Procedure. 71
E. Meetings. 72
1. General. 72
2. Location. 72
3. Agenda. 72
4. Decisions. 72
F. Compensation. 72

ARTICLE 4.

DECISIONMAKING AND ADMINISTRATIVE BODIES

SEC. 4.1 BOARD OF COUNTY COMMISSIONERS.

A. **Powers and duties**. In addition to any authority granted the Board of County Commissioners by general or special law, the Board of County Commissioners shall have the following powers and duties under the provisions of this Code:

1. To serve as Land Development Regulation Commission (LDRC) as provided by Secs. 163.3174 and 163.3164, Fla. Stat.;

2. To initiate, hear, consider and approve, approve with conditions, or deny applications to amend the text of the Comprehensive Plan;

3. To initiate, hear, consider and approve, approve with conditions, or deny applications for Site Specific (Future Land Use Map) amendments to the Future Land Use Map of the Comprehensive Plan;

4. To initiate, hear, consider and approve, approve with conditions, or deny applications for Transfer of Development Rights and Voluntary Density Bonus Programs.

5. To initiate, hear, consider and approve, approve with conditions, or deny applications for development permits to amend the text of this Code;

6. To initiate, hear, consider and approve, approve with conditions, or deny applications for development permits to amend the Official Zoning Map of this Code;

7. To hear, consider and approve, approve with conditions, or deny applications for development permits for Preliminary Development Plans for a Residential Planned Unit Development (RPUD), Traditional Neighborhood Development District (TND), Neighborhood Center Planned Development District (NCPD), Mixed Use Planned Development District (MXDD), Multiple Use Planned Development District (MUDD), Planned Industrial Park Development District (PIPD), Mobile Home Park Planned Development District (MHPD), Recreational Vehicle Park Planned Development District (RVPD), and Solid Waste Disposal Planned Development District (SWPD);

8. To hear, consider and approve, approve with conditions, or deny applications for development permits for Class "A" Conditional uses;

9. To hear and consider appeals from, and affirm or reverse decisions of the Zoning Commission on applications for development permits for Class "B" Conditional uses;

10. To designate and appoint hearing officers to make decisions as the Board of County Commissioners may deem appropriate;

11. To establish fees for the review of applications for development permits, and appropriate funds to defray the costs of administering this Code;

12. To act to ensure compliance with development orders or permits as approved and issued;

13. To hear and consider administrative inquiries.

14. To take such other action not delegated to the Land Use Advisory Board, the Zoning Commission, the Development Review Committee, the Board of Adjustment, the Traffic Performance Standards Appeals Board, the Environmental Control Hearing Board, the Environmental Ordinance Appeals Board, the Development Review Appeals Board, the Impact Fee Review Committee, the Impact Fee Appeals Board, the Environmental Ordinance Appeals Board, the Code Enforcement Board, the Groundwater and Natural Resources Protection Board, the Hearing Officer, or the heads or other officials of County Departments, as the Board of County Commissioners may deem desirable and necessary to implement the provisions of the Comprehensive Plan and this Code; and

15. To appoint other advisory boards that are determined necessary to assist in the implementation of this Code or the Comprehensive Plan.

[Ord. No. 93-4] [Ord. No. 94-9]
[Ord. No. 93-4; February 2, 1993] [Ord. No. 94-9; May 17, 1994]

SEC. 4.2 LAND USE ADVISORY BOARD.

A. **Establishment.** There is hereby established a Land Use Advisory Board.

B. **Powers and duties.** The Land Use Advisory Board shall have the following powers and duties under the provisions of this Code:

1. To serve as the Local Planning Agency (LPA) per Sec. 163.3174, Fla. Stat. and to provide recommendations on the preparation of the Comprehensive Plan, or any element or portion thereof, and any amendments thereto to the Board of County Commissioners."

2. To initiate, review, hear, consider and make recommendations to the Board of County Commissioners to approve, approve with conditions, or deny applications to amend the Comprehensive Plan, including Site Specific (Future Land Use Map) amendments to the Comprehensive Plan;

3. To initiate, review, hear, consider and make recommendations to the Board of County Commissioners to approve, approve with conditions, or deny applications for Transfer of Development Rights or the Voluntary Density Bonus Programs;

4. To make its special knowledge and expertise available upon written request and authorization of the Board of County Commissioners to any official, department, board, commission or agency of the County, State or Federal governments;

5. To make additional or amended rules of procedure not inconsistent with this section to govern the Land Use Advisory Board's proceedings;

6. To make studies of the resources, possibilities and needs of the County and to report its findings and recommendations, with reference thereto, from time to time, to the Board of County Commissioners;

7. To submit an Annual Report to the Board of County Commissioners summarizing its annual activities; and

8. To review and make recommendations to the Board of County Commissioners on Transportation Concurrency Management Area (TCMA) and Constrained Road at Lower Levels of Service (CRALLS) or a major thoroughfare on which a lower LOS is set pursuant to Sec. 15.1.

[Ord. No. 93-4] [Ord. No. 94-23]

C. **Board membership**.

1. **Qualifications**. Members of the Land Use Advisory Board shall be qualified electors of Palm Beach County for two (2) years prior to appointment. No member of the Board of County Commissioners or a County employee, including a Board of County Commission aide, shall serve on the Land Use Advisory Board. Although no specific experience requirements shall be necessary as a prerequisite to appointment, consideration shall be given to applicants who have experience or education in planning, law, architecture, natural resource management, real estate, and related fields.

2. **Appointment.** The Land Use Advisory Board shall be composed of fifteen (15) members, to be appointed by the Board of County Commissioners. Each member of the Board of County Commissioners shall appoint two (2) members to the Land Use Advisory Board. One (1) member of the Land Use Advisory Board shall be appointed at large by a majority vote of the Board of County Commissioners.

3. **Terms of office.**

   a. The term of office of each Land Use Advisory Board member shall be three (3) years. All members serving on the Land Use Advisory Board on the effective date of this Code shall complete their terms according to their prior appointments.

   b. When a person is appointed to fill out the term of a departing member, that person's term shall end at the time the departing member's term would have ended.

   c. Members of the Land Use Advisory Board shall hold office until the first Tuesday after the first Monday in June of the year their term expires.

   d. There shall be no limit on the number of terms a person may serve on the Land Use Advisory Board.

   e. The maximum number of boards and commissions a person appointed to the Land Use Advisory Board by the Board of County Commissioners may serve on at one (1) time shall be three (3). Members affected by this provision shall be governed by Palm Beach County Resolution No. 91-1003, as amended.

f. Land Use Advisory Board members shall not be prohibited from qualifying as a candidate for elected office.

4. **Removal from office.**

a. A Land Use Advisory Board member shall serve at the pleasure of the member of the Board of County Commissioners who appointed that member, and may be removed by that Board of County Commission member without cause at any time.

b. In the event that any Land Use Advisory Board member is no longer a qualified elector, or the member is convicted of a felony, or an offense involving moral turpitude while in office, the Board of County Commissioners shall automatically terminate the appointment of such person as a member of the Land Use Advisory Board.

c. If any member of the Land Use Advisory Board fails to attend three (3) consecutive regular Land Use Advisory Board meetings without an excused absence, or one half (½) of the meetings within a calendar year, that member shall be automatically terminated. Participation for less than three-fourths (3/4) of a meeting shall constitute lack of attendance. A member of the Land Use Advisory Board who has been automatically removed for lack of attendance may be reappointed by the Board of County Commission member who originally appointed that person.

d. Excused absence constitutes absence due to illness, absence from Palm Beach County, or personal hardship, if approved by majority vote of the membership of the Land Use Advisory Board. Excused absence shall be entered into the minutes at the next regularly scheduled meeting of the Land Use Advisory Board.

e. Members removed from office shall be terminated immediately and not continue to serve until a new appointment is made by the Board of County Commissioners.

5. **Vacancy.** The Board of County Commission member who appointed the terminated or vacated member shall fill the vacancy within thirty (30) days after it occurs. The Board of County Commissioners shall fill the vacancy of the member appointed at large within thirty (30) days after it occurs.

6. **Conflict of Interest.**

a. **General.** No Land Use Advisory Board member shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activities, or incur any obligation of any nature which is in substantial conflict with the proper discharge of duties as a member of the Land Use Advisory Board.

b. **Implementation.** To implement this policy and strengthen the faith and confidence of the citizens of Palm Beach County, members of the Land Use Advisory Board are directed:

(1) To be governed by the applicable provisions of the Palm Beach County Ethics Ordinance, upon adoption of such ordinance.
(2) Not to accept any gift, favor or service that might reasonably tend to improperly influence the discharge of official duties.

(3) To make known by written or oral disclosure, on the record at a Land Use Advisory Board meeting, any interest which the member has in any pending matter before the Land Use Advisory Board, before any deliberation on that matter.

(4) To abstain from using membership on the Land Use Advisory Board to secure special privileges or exemptions.

(5) To refrain from engaging in any business or professional activity which might reasonably be expected to require disclosure of information acquired by membership on the Land Use Advisory Board not available to members of the general public, and to refrain from using such information for personal gain or benefit.

(6) To refrain from accepting employment which might impair independent judgment in the performance of responsibilities as a member of the Land Use Advisory Board.

(7) To refrain from accepting or receiving any additional compensation from any source other than Palm Beach County for duties performed as a member of the Land Use Advisory Board.

(8) To refrain from transacting any business in an official capacity as a member of the Land Use Advisory Board with any business entity of which the member is an officer, director, agent or member, or in which the member owns a controlling interest.

(9) To refrain from participation in any matter in which the member has a personal investment which will create a substantial conflict between private and public interests.

c. **Board action.** Willful violation of this subsection which affects a vote of a Land Use Advisory Board member shall render that action voidable by the Board of County Commissioners.

D. **Officers; quorum; rules of procedure.**

1. **Chair and vice-chair.** At an annual organizational meeting, the members of the Land Use Advisory Board shall elect a Chair and Vice-Chair from among the members. The Chair and Vice-Chair's terms shall be for one (1) year. There shall be no limit on the number of consecutive terms that may be served by the Chair or Vice-chair. The Chair shall administer oaths, shall be in charge of all procedures before the Land Use Advisory Board, and shall take such action as shall be necessary to preserve the order and the integrity of all proceedings before the Land Use Advisory Board. In the absence of the Chair, the Vice-Chair shall act as Chair and shall have all the powers of the Chair.

2. **Secretary.** The Planning Director of PZB shall serve as Secretary of the Land Use Advisory Board. The Secretary shall keep minutes of all proceedings, which minutes shall be a summary of all proceedings before the Land Use Advisory Board, which shall include the vote of all members upon every question, and be attested to by the Secretary. The minutes shall be approved by a majority of the Land Use Advisory Board members voting. In addition, the Secretary shall maintain all records of Land Use Advisory Board meetings, hearings, proceedings, and the correspondence of the Land Use Advisory Board. The records of the Land Use Advisory Board shall be stored with the agency serving as Secretary herein, and shall be available for inspection by the public, upon reasonable request, during normal business hours.

3. **Staff.** The Planning Division of PZB shall be the professional staff of the Land Use Advisory Board. The Planning Division staff shall be responsible for, providing a recommendation to the Land Use Advisory Board on all Comprehensive Plan amendments, including amendments to any maps included as part of the Comprehensive Plan.

4. **County attorney.** The County Attorney's Office shall provide counsel and interpretation on legal issues.

5. **Quorum and voting.** The presence of a majority of the members of the Land Use Advisory Board shall constitute a quorum of the Land Use Advisory Board necessary to take action and transact business. In addition, a simple majority vote shall be necessary in order to forward a formal recommendation of approval, approval with conditions, denial, or other recommendation to the Board of County Commissioners. In the event of a tie vote, the proposed motion shall be considered to have failed. No member shall abstain from voting unless there is a conflict of interest pursuant to this Article, or Sec. 112.01 et. seq., Fla. Stat.

6. **Rules of procedure.** All meetings shall be governed by Robert's Rules of Order. The Land Use Advisory Board may, by a majority vote of the entire membership, adopt additional rules of procedure for the transaction of business, and shall keep a record of meetings, resolutions, findings and determinations.

7. **Additional rules applicable to Local Planning Agency.**

   a. The agenda of the Land Use Advisory Board sitting as the Local Planning Agency shall be as prepared and presented by the Palm Beach County Planning Division and such agenda shall not be deviated from without a two-thirds (⅔)vote of a quorum of the Local Planning Agency.

   b. Failure of the Local Planning Agency to make a recommendation on any Comprehensive Plan Amendment to the Board of County Commissioners prior to the final transmittal hearing of the amendments shall constitute the item being sent to the Board of County Commissioners with an LPA recommendation of denial pursuant to Fla. Stat. Chapter 163.3174 (1992) as may be amended from time to time.

   [Ord. No. 93-4][Ord. No. 93-17][Ord. No. 94-23]

E. Meetings.

1. **General.** General meetings of the Land Use Advisory Board shall be held as needed to dispense of matters properly before the Land Use Advisory Board. Special meetings may be called by the Chairman or in writing by a majority of the members of the Land Use Advisory Board. Twenty four (24) hour written notice shall be given to each Land Use Advisory Board member before a special meeting.

2. **Location.** The location of all Land Use Advisory Board meetings shall be in Palm Beach County, Florida.

3. **Continuance.** If a matter is postponed due to lack of a quorum, the meeting shall be rescheduled to the next Land Use Advisory Board meeting.

4. **Meetings open to public.** All meetings and public hearings of the Land Use Advisory Board shall be open to the public.

5. **Notice.** Public meetings shall be set for a time certain after due public notice.

6. **Annual Report**. The Land Use Advisory Board shall submit an Annual Report to the Board of County Commissioners. The form, substance, and submittal date for the Annual Report shall be established by a Policy and Procedure Memorandum (PPM).

F. Compensation. The members of the Land Use Advisory Board shall receive no compensation for their services. Travel reimbursement for members of the Land Use Advisory Board are limited to expenses incurred only for travel outside Palm Beach County necessary to fulfill the responsibilities of membership on the Land Use Advisory Board. Travel reimbursement shall be made only when sufficient funds have been budgeted and are available, and upon prior approval of the Board of County Commissioners. No other expenses are reimbursable except documented long distance telephone calls to County staff that are necessary to fulfill the responsibility of membership on the Land Use Advisory Board.

[Ord. No. 93-4, February 2, 1993] [Ord. No. 93-17; July 20, 1993] [Ord. No. 94-23; October 4, 1994]

SEC. 4.3 ZONING COMMISSION.

A. Establishment. There is hereby established a Zoning Commission.

B. Powers and duties. The Zoning Commission shall have the following powers and duties under the provisions of this Code:

1. To initiate, review, hear, consider, and make recommendations to the Board of County Commissioners to approve, approve with conditions, or deny applications for development permits to amend the text of this Code;

2. To initiate, review, hear, consider, and make recommendations to the Board of County Commissioners to approve, approve with conditions, or deny applications for development permits to amend the Official Zoning Map of this Code;

3. To review, hear, consider, and make recommendations to the Board of County Commissioners to approve, approve with conditions, or deny applications for development permits for Preliminary Development Plans for a Residential Planned Unit Development (RPUD), Traditional Neighborhood Development District (TND), Neighborhood Center Planned Development District (NCPD), Mixed Use Planned Development District (MXDD), Multiple Use Planned Development District (MUDD), Planned Industrial Park Development District (PIPDD), Mobile Home Park Planned Development District (MHPD), Recreational Vehicle Park Planned Development District (RVPD), and Solid Waste Disposal Planned Development District (SWPD);

4. To review, hear, consider, and make recommendations to the Board of County Commissioners to approve, approve with conditions, or deny applications for development permits for Class "A" Conditional uses;

5. To review, hear, consider, and approve, approve with conditions, or deny applications for development permits for Class "B" Conditional uses;

6. To make its special knowledge and expertise available upon written request and authorization of the Board of County Commissioners to any official, department, board, commission or agency of the County, State or federal governments;

7. To make studies of the resources, possibilities and needs of the County and to report its findings and recommendations, with reference thereto, from time to time, to the Board of County Commissioners; and

8. To recommend to the Board of County Commissioners additional or amended rules of procedure not inconsistent with this section to govern the Zoning Commission's proceedings.

C. **Commission membership.**

1. **Qualifications.** Members of the Zoning Commission shall be qualified electors of Palm Beach County, and residents of Palm Beach County for two (2) years prior to appointment. No member of the Board of County Commissioners or a County employee including a Board of County Commissioners aide, shall serve on the Zoning Commission. Although no specific experience requirements shall be necessary as a prerequisite to appointment, consideration shall be given to applicants who have experience or education in planning, law, architecture, natural resource management, real estate, and related fields.

2. **Appointment.** The Zoning Commission shall be composed of seven (7) members, to be appointed by the Board of County Commissioners. Each County Commissioner shall appoint one (1) member to the Zoning Commission. The Board of County Commissioners shall also appoint two (2) alternate members, a first alternate and a second alternate. The alternate members shall be appointed at large by a majority vote of the Board of County Commissioners. The alternate members shall vote only in the absence of regular members. The first alternate member shall have priority to vote in the absence of the first regular member's absence.

3. **Terms of office.**

a. The term of office of each member shall be three (3) years. All members serving on the Planning Commission on the effective date of this Code shall complete their terms as members of the Zoning Commission according to their prior appointments.

b. When a person is appointed to fill out the term of a departing member, that person's term shall end at the time the departing member's term would have ended.

c. Members of the Zoning Commission shall hold office until the first Tuesday after the first Monday in February of the year their term expires.

d. There shall be no limit on the number of terms a person may serve on the Zoning Commission.

e. The maximum number of boards and commissions that a person appointed by the Board of County Commissioners may serve on at one (1) time shall be three (3). Members affected by this provision shall be governed by Palm Beach County Ordinance No. 91-38, as amended.

f. Members of the Zoning Commission shall not be prohibited from qualifying as a candidate for elected office.

4. **Removal from office.**

   a. A member of the Zoning Commission shall serve at the pleasure of the member of the Board of County Commissioners who appointed that member, and may be removed by that Board of County Commission member without cause at any time.

   b. In the event that any Zoning Commission member is no longer a qualified elector or the member is convicted of a felony, or an offense involving moral turpitude while in office, the Board of County Commissioners shall terminate the appointment of such person as a member of the Zoning Commission.

   c. If any member of the Zoning Commission fails to attend three (3) consecutive regular Zoning Commission meetings without an excused absence, or one half (½) of the meetings within a calendar year, the Board of County Commissioners shall automatically terminate the appointment of such person as a member of the Zoning Commission. Participation for less than three-fourths (3/4) of a meeting shall constitute lack of attendance. A member of the Zoning Commission who has been automatically removed for lack of attendance may be reappointed by the Board of County Commission member who originally appointed that person.

   d. Excused absence constitutes absence due to illness, absence from Palm Beach County, or personal hardship, if approved by a majority vote of the members of the Zoning Commission. Excused absence shall be entered into the minutes at the next regularly scheduled meeting of the Zoning Commission.

   e. Members removed from office shall be terminated immediately and not continue to serve until a new appointment is made by the Board of County Commissioners.

5. **Vacancy.**

   a. Whenever a vacancy occurs on the Zoning Commission, the full time member's position shall be served by an alternate member until a permanent member can be appointed by the Board of County Commissioners.

   b. The Board of County Commissioners shall fill a vacancy within thirty (30) days after it occurs.

6. **Conflict of Interest.**

   a. **General.** No Zoning Commission member shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activities, or incur any obligation of any nature which is in substantial conflict with the proper discharge of duties as a member of the Zoning Commission.

   b. **Implementation.** To implement this policy and strengthen the faith and confidence of the citizens of Palm Beach County, members of the Zoning Commission are directed:

      (1) To be governed by the applicable provisions of the Palm Beach County Ethics Ordinance, upon adoption of such ordinance.

(2) Not to accept any gift, favor or service that might reasonably tend to improperly influence the discharge of official duties.

(3) To make known by written or oral disclosure, on the record at a Zoning Commission meeting, any interest which the member has in any pending matter before the Zoning Commission, before any deliberation on that matter.

(4) To abstain from using membership on the Zoning Commission to secure special privileges or exemptions.

(5) To refrain from engaging in any business or professional activity which might reasonably be expected to require disclosure of confidential information acquired by membership on the Zoning Commission not available to members of the general public, and to refrain from using such information for personal gain or benefit.

(6) To refrain from accepting employment which might impair independent judgment in the performance of responsibilities as a member of the Zoning Commission.

(7) To refrain from accepting or receiving any additional compensation from any source other than Palm Beach County for duties performed as a member of the Zoning Commission.

(8) To refrain from transacting any business in an official capacity as a member of the Zoning Commission with any business entity of which the member is an officer, director, agent or member, or in which the member owns a controlling interest.

(9) To refrain from participation in any matter in which the member has a personal investment which will create a substantial conflict between private and public interests.

c. **Board Action**. Willful violation of this subsection which affects a vote of a Zoning Commission member shall render that action voidable by the Board of County Commissioners.

[Ord. No. 93-17][Ord. No. 94-23]

D. Officers; quorum; rules of procedure.

1. **Chairman and vice-chairman.** At an annual organizational meeting, the members of the Zoning Commission shall elect a Chairman and Vice-Chairman from among the members. The Chairman and Vice-Chairman's term shall be for one (1) year. No member shall serve as Chairman for more than two (2) consecutive terms. The Chairman shall administer oaths, shall be in charge of all procedures before the Zoning Commission, and shall take such action as shall be necessary to preserve the order and the integrity of all proceedings before the Zoning Commission. In the absence of the Chairman, the Vice-Chairman shall act as Chairman and shall have all the powers of the Chairman.

2. **Secretary.** The Zoning Director of PZB shall serve as Secretary of the Zoning Commission. The Secretary shall keep minutes of all proceedings, which minutes shall be a summary of all proceedings before the Zoning Commission, which shall include the vote of all members upon every question, and be attested to by the Secretary. If a member abstains from voting, the abstention and reason for abstention shall be stated in the minutes. The minutes shall be approved by a majority of the Zoning Commission members voting. In addition, the Secretary shall maintain all records of Zoning Commission meetings, hearings, proceedings, and the correspondence of the Zoning Commission. The records of the Zoning Commission shall be stored with the agency serving as Secretary herein, and shall be available for inspection by the public, upon reasonable request, during normal business hours.

3. **Staff.** The Zoning Division of PZB shall be the professional staff of the Zoning Commission.

4. **County attorney.** The County Attorney's Office shall provide counsel and interpretation on legal issues.
5. **Quorum and voting.** The presence of a majority of the members of the Zoning Commission shall constitute a quorum of the Zoning Commission necessary to take action and transact business. In addition, a simple majority shall be necessary in order to forward a formal recommendation of approval, approval with conditions, denial, or other recommendation to the Board of County Commissioners. A simple majority shall be necessary for the Zoning Commission to make a final decision approving an application for a development permit. In the event of a tie vote, the proposed motion shall be considered to have failed. No member shall abstain from voting unless there is a conflict of interest pursuant to Sec. 4.3.C.6 of this Code, or Sec. 112.01, et. seq., Fla. Stat.

6. **Rules of procedure.** The Zoning Commission may, by a majority vote of the entire membership, adopt additional rules of procedure for the transaction of business, and shall keep a record of meetings, resolutions, findings and determinations. The Zoning Commission may provide for transcription of such hearings and proceedings, or portions of hearings and proceedings, as may be deemed necessary.

[Ord. No. 95-8]

E. Meetings.

1. **General.** General meetings of the Zoning Commission shall be held as needed to dispense of matters properly before the Zoning Commission. Special meetings may be called by the Chairman or in writing by a majority of the members of the Zoning Commission. Twenty four (24) hour written notice shall be given to each Zoning Commission member before a special meeting.

2. **Location.** The location of all Zoning Commission meetings shall be in Palm Beach County, Florida.

3. **Continuance.** If a matter is postponed due to lack of a quorum, the meeting shall be rescheduled to the next regularly scheduled Zoning Commission meeting. The Secretary shall notify all members of the date of the meeting and also shall notify all parties.

4. **Meetings open to public.** All meetings and public hearings of the Zoning Commission shall be open to the public.

5. **Notice.** Public hearings shall be set for a time certain after due public notice.

6. **Annual Report.** The Zoning Commission shall submit an Annual Report to the Board of County Commissioners. The form, substance, and submittal dates for the Annual Report shall be established by a Policy and Procedure Memorandum (PPM).

F. Compensation. The members of the Zoning Commission shall receive no compensation for their services. Travel reimbursement for members of the Zoning Commission is limited to expenses incurred only for travel outside Palm Beach County necessary to fulfill the responsibilities of membership on the Zoning Commission. Travel reimbursement shall be made only when sufficient funds have been budgeted and are available, and upon the prior approval of the Board of County Commissioners. No other expenses are reimbursable except documented long distance telephone calls to County staff to fulfill the responsibilities of membership on the Zoning Commission.

[Ord. No. 93-17; July 20, 1993] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-8;March 21, 1995]

SEC. 4.4 DEVELOPMENT REVIEW COMMITTEE.

A. **Establishment**. There is hereby established a Development Review Committee.

B. **Powers and duties**. The Development Review Committee shall have the following powers and duties under the provisions of this Code:

1. To hear, consider, and determine the sufficiency of applications for and make recommendations to approve, approve with conditions, or deny applications for development permits for Preliminary Development Plans for a Residential Planned Unit Development (RPUD), Traditional Neighborhood Development District (TND), Neighborhood Center Planned Development District (NCPD), Mixed Use Planned Development District (MXDD), Multiple Use Planned Development District (MUDD), Planned Industrial Park Development District (PIPDD), Mobile Home Park Planned Development District (MHPD), Recreational Vehicle Park Planned Development District (RVPD), and Solid Waste Disposal Planned Development District (SWPD);

2. To hear, consider, and determine the sufficiency of applications for and recommendations to approve, approve with conditions, or deny applications for development permits for Class "A" Conditional uses and Class "B" Conditional uses;

3. To hear, review, consider and approve, approve with conditions, or deny applications for development permits for Site Plans;

4. To hear, review, consider and approve, approve with conditions, or deny applications for development permits for Final Subdivision Plans.

5. To request other County officials and other agencies to comment on applications for development permits as is deemed appropriate.

6. To recommend to the Board of County Commissioners additional or amended rules of procedure not inconsistent with this section to govern the Development Review Committee's proceedings.

C. **Committee membership.**

1. The Development Review Committee shall consist of the following members:

   a. The Zoning Director of PZB;

   b. The Planning Director of PZB;

   c. The County Engineer;

   d. The County Health Director;

   e. The Director of ERM; and

   f. The Director of the Parks and Recreation Department.

2. The DRC shall consist of the following ex officio members who shall be consulted on an as needed basis.

   a. The Building Director of PZB;

   b. The Director of Department of Airports;

   c. The Director of the Water Utilities Department;

   d. The Chief of the Fire-Rescue Department;

   e. The Director of PREM;

   f. The Director of Housing and Community Development (HCD);

   g. The Administrator of Palm Beach County School Board; and

   h. The Director of Lake Worth Drainage District.

[Ord. No. 93-4]

D. **Officers; quorum; rules of procedure.**

1. **Chairman and vice-chairman.** The Executive Director of PZB shall designate the Chairman and Vice Chairman of the Development Review Committee from among its members. The Chairman shall be in charge of all proceedings before the Development Review Committee, shall decide all points of order on procedure, and shall take such action as shall be necessary to preserve the order and integrity of all proceedings before the Development Review Committee. In the absence of the Chairman, the Vice Chairman shall act as the Chairman and shall have all the powers of the Chairman.

2. **Secretary.** The Executive Director of PZB shall designate a Secretary for the Development Review Committee from among its members. The Secretary shall maintain all records of Development Review Committee meetings, hearings, proceedings, and the correspondence of the Development Review Committee. The records of the Development Review Committee shall be stored with the agency serving as Secretary herein, and shall be available for inspection by the public, upon reasonable request, during normal business hours.

3. **Staff.** The Zoning Division of PZB shall be the professional staff for the Development Review Committee.

4. **County attorney.** The County Attorney's Office shall provide counsel and interpretation on legal issues.

5. **Quorum and certification.** No meeting of the Development Review Committee shall be called to order, nor may any business be transacted by the Development Review Committee without a quorum consisting of a majority of members of the Development Review Committee being present. All actions shall require approval of all members of the Development Review Committee. A Development Review Committee member shall only withhold certification approval when a proposed project fails to meet a Code standard which that member is charged by the Code to administer.

6. **Rules of procedure.** Upon request, the Development Review Committee may provide, at cost, a tape of its hearings and proceedings, or portions of meetings and proceedings, as may be deemed necessary.

7. **Appeal**. Appeal of any decision of the Development Review Committee shall be made to the Development Review Appeals Board within ten (10) working days after the notice indicating the decision is mailed to the applicant.

[Ord. No. 93-17][Ord. No. 94-23]

E. Meetings.

1. **General.** Meetings of the Development Review Committee shall be held no less frequently than two (2) times a month to dispose of matters properly before the Development Review Committee, and may be called by the Chairman or in writing by a majority of the members of the Development Review Committee.

2. **Location.** The location of all meetings shall be in Palm Beach County, Florida.

3. **Continuance.** If a matter is postponed due to lack of a quorum, the Chairman shall continue the meeting as a special meeting to the next regularly scheduled Development Review Committee meeting. The Secretary shall notify all members of the date of the continued meeting and also shall notify all parties.

4. **Meetings open to public.** All meetings and hearings of the Development Review Committee shall be open to the public.

5. **Notice.** Meetings shall be set for a time certain with due public notice.

F. Compensation. Development Review Committee members shall receive no additional compensation above their normal salaries for their services to the Development Review Committee.

[Ord. No. 93-17; July 20, 1993][Ord. No. 94-23; October 4, 1994]

SEC. 4.5 BOARD OF ADJUSTMENT.

A. Establishment. There is hereby established a Board of Adjustment.

B. Powers and duties. The Board of Adjustment shall have the following powers and duties under the provisions of this Code:

1. To hear, review, consider and approve, approve with conditions, or deny variances to the terms of sections of this Code as described in Sec. 5.7.

2. To hear, review, consider and approve or reverse decisions of the Zoning Director on zoning matters, unless otherwise provided in this Code.

3. To hear, review, consider and approve or reverse decisions of the County Engineer on matters relating to Subdivision requirements, unless otherwise provided in this Code.

4. To make its special knowledge and expertise available upon written request and authorization of the Board of County Commissioners to any official, department, board, or commission of the County; and

5. To recommend to the Board of County Commissioners additional or amended rules of procedure not inconsistent with this section to govern the Board of Adjustment proceedings.

C. **Board membership**.

1. **Qualifications.** Members of the Board of Adjustment shall be qualified electors of Palm Beach County and residents of Palm Beach County for two (2) years prior to appointment. No member of the Board of County Commissioners or a County employee including a Board of County Commission aide shall serve on the Board of Adjustment. Although no specific experience requirements shall be necessary as a pre-requisite to appointment, consideration shall be given to applicants who have experience in planning, the law, architecture, natural resource management, real estate and related fields. No two (2) members of the Board of Adjustment shall represent the same occupation or business.

2. **Appointment.** The Board of Adjustment shall be composed of seven (7) members appointed by the Board of County Commissioners. Each County Commissioner shall appoint one (1) member to the Board of Adjustment. The Board of County Commissioners shall also appoint two (2) alternate members, a first alternate and a second alternate. The alternates shall be appointed at large by a majority of the Board of County Commissioners. The alternates shall serve a three (3) year term. The alternate members shall vote only in the absence of regular members. The first alternate shall have priority to replace the first regular member that is absent.

3. **Terms of office.**

   a. The term of office of each member shall be three (3) years. All members serving on the Board of Adjustment on the effective date of this Code shall complete their terms according to their prior appointments.

   b. When a member is appointed to fill out the term of a departing member, that person's term will end at the time the departing member's term would have ended.

   c. Members of the Board of Adjustment shall hold office until the first Tuesday after the first Monday in February of the year their term expires.

   d. There shall be no limit on the number of terms a person may serve on the Board of Adjustment.

   e. The maximum number of boards and commissions that a person appointed by the Board of County Commissioners may serve on at one time shall be three (3). Members affected by this provision shall be governed by Palm Beach County Ordinance No. 91-38, as amended.

f. Members of the Board of Adjustment shall not be prohibited from qualifying as a candidate for elected office.

4. Removal from office.

a. A member of the Board of Adjustment shall serve at the pleasure of the Board of County Commission member who appointed the Board of Adjustment member, and may be removed by that Board of County Commission member without cause at any time.

b. In the event that any Board of Adjustment member is no longer a qualified elector or the member is convicted of a felony, or an offense involving moral turpitude in office, the Board of County Commissioners shall terminate the appointment of such person as a member of the Board of Adjustment.

c. If any member of the Board of Adjustment fails to attend three (3) consecutive regular Board of Adjustment meetings without an excused absence, or one half (½) of the meetings within a calendar year, the Board of County Commissioners shall automatically terminate the appointment of such person as a member of the Board of Adjustment. Participation for less than three-fourths (3/4) of a meeting shall constitute lack of attendance. A member of the Board of Adjustment who has been automatically removed for lack of attendance may be reappointed by the Board of County Commission member who originally appointed that Board of Adjustment member.

d. Excused absence constitutes absence due to illness, absence from Palm Beach County, or personal hardship, if approved by a majority vote of the Board of Adjustment. Excused absence shall be entered into the minutes at the next regularly scheduled meeting of the Board of Adjustment.

e. Members removed from office shall be terminated immediately and not continue to serve until a new appointment is made by the Board of County Commissioners.

5. Vacancy.

a. When a member resigns or is removed, the first alternate member shall vote in the resigned or removed member's absence until a permanent member can be appointed.

b. The Board of County Commissioners shall fill a vacancy within thirty (30) days after it occurs.

6. Conflict of Interest.

a. **General.** No Board of Adjustment member shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activities, or incur any obligation of any nature which is in substantial conflict with the proper discharge of duties as a member of the Board of Adjustment.

b. Implementation. To implement this policy and strengthen the faith and confidence of the citizens of Palm Beach County, members of the Board of Adjustment are directed:

(1) To be governed by the applicable provisions of the Palm Beach County Ethics Ordinance, upon adoption of such ordinance.
(2) Not to accept any gift, favor or service that might reasonably tend to improperly influence the discharge of official duties.
(3) To make known by written or oral disclosure, on the record at a Board of Adjustment meeting, any interest which the member has in any pending matter before the Board of Adjustment, before any deliberation on that matter.
(4) To abstain from using membership on the Board of Adjustment to secure special privileges or exemptions.
(5) To refrain from engaging in any business or professional activity which might reasonably be expected to require disclosure of confidential information acquired by membership on the Board of Adjustment not available to members of the general public, and refrain from using such information for personal gain or benefit.
(6) To refrain from accepting employment which might impair independent judgment in the performance of responsibilities as a member of the Board of Adjustment.
(7) To refrain from accepting or receiving any additional compensation from any source other than Palm Beach County for duties performed as a member of the Board of Adjustment.
(8) To refrain from transacting any business in an official capacity as a member of the Board of Adjustment with any business entity of which the member is an officer, director, agent or member, or in which the member owns a controlling interest.
(9) To refrain from participation in any matter in which the member has a personal investment which will create a substantial conflict between private and public interests.

c. Violation voids vote. Willful violation of this subsection which affects a vote of the Board of Adjustment member shall render that action voidable by the Board of County Commissioners.
[Ord. No. 93-17] [Ord. No. 94-23]

D. Officers; quorum; rules of procedure.

1. Chairman and vice-chairman. At an annual organizational meeting, the members of the Board of Adjustment shall elect one (1) of their members as Chairman and one (1) as Vice-Chairman. The Chairman shall administer oaths, shall be in charge of all proceedings before the Board of Adjustment, shall decide all points of order on procedure, and shall take such action as shall be necessary to preserve the order and integrity of all proceedings before the Board of Adjustment. In the absence of the Chairman, the Vice-Chairman shall act as Chairman and shall have all powers of the Chairman. The Chairman and Vice-Chairman shall serve terms of one (1) year. No member shall serve as Chairman for more than two (2) consecutive terms.

2. **Secretary.** The Zoning Director of PZB shall serve as Secretary for the Board of Adjustment. The Secretary shall keep minutes of all proceedings, which minutes shall be a summary of all proceedings before the Board of Adjustment, which shall include the vote of all members upon every question, and be attested to by the Secretary. If a member abstains from voting, the abstention and reasons for abstention shall be stated in the minutes. The minutes shall be approved by a majority of the Board of Adjustment members voting. In addition, the Secretary shall maintain all records of Board of Adjustment meetings, hearings, proceedings, and the correspondence of the Board of Adjustment. The records of the Board of Adjustment shall be stored with the agency serving as Secretary herein, and shall be available for inspection by the public, upon reasonable request, during normal business hours.

3. **Staff.** The Zoning Division of PZB shall be the professional staff for the Board of Adjustment. In instances where relevant and appropriate, staff from DEPW, ERM, and the PBCPHU and other County departments shall also assist the Board of Adjustment.

4. **County attorney.** The County Attorney's Office shall provide counsel and interpretation on legal issues.

5. **Quorum and voting.** No meeting of the Board of Adjustment shall be called to order, nor may any business be transacted by the Board of Adjustment without a quorum consisting of a majority of the members of the Board of Adjustment being present. All actions shall require a simple majority of the members of the Board of Adjustment then present and voting, except that four (4) affirmative votes shall be necessary in order for any variance to be adopted by the Board of Adjustment. In the event of a tie vote, the proposed motion shall be considered to have failed. No member shall abstain from voting unless there is a conflict of interest pursuant to Sec. 4.5.C.6 of this Code, or Sec. 112.01 et. seq., Fla. Stat.

6. **Rules of procedure.** The Board of Adjustment, by a majority vote of the entire membership, may adopt rules of procedure for the transaction of business and shall keep a record of meetings, resolutions, findings and determinations. The Board of Adjustment may provide for transcription of such hearings and proceedings, or portions of hearings and proceedings, as may be deemed necessary.

[Ord. No. 95-8]

E. Meetings.

1. **General.** General meetings of the Board of Adjustment shall be held at least once a month or more frequently as needed to dispose of matters properly before the Board. Special meetings may be called by the Chairman, or in writing by a majority of the members of the Board of Adjustment. Twenty four (24) hour written notice shall be given to each Board of Adjustment member before a special meeting.

2. **Location.** The location of all meetings shall be in Palm Beach County, Florida.

3. **Continuance.** If a matter is postponed due to lack of a quorum, the Chairman shall continue the meeting to the next regularly scheduled Board of Adjustment meeting. The Secretary shall notify all members of the date of the continued meeting and also shall notify all parties.

4. **Meetings open to public.** All meetings and public hearings of the Board of Adjustment shall be open to the public.

5. **Notice.** Public hearings shall be set for a time certain after due public notice.

6. **Annual Report.** The Board of Adjustment shall submit an Annual Report to the Board of County Commissioners. The form, substance, and submittal dates for the Annual Report shall be established by a Policy and Procedure Memorandum (PPM).

F. Compensation. The members of the Board of Adjustment shall receive no compensation for their services. Travel reimbursement for members of the Board of Adjustment is limited to expenses incurred only for travel outside Palm Beach County necessary to fulfill the responsibilities of membership on the Board of Adjustment. Travel reimbursement shall be made only when sufficient funds have been budgeted and are available, and upon the prior approval of the Board of County Commissioners. No other expenses are reimbursable except documented long distance telephone calls to County staff to fulfill the responsibilities of membership on the Board of Adjustment.
[Ord. No. 93-17; July 20, 1993] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-8; March 21, 1995]

SEC. 4.6 TRAFFIC PERFORMANCE STANDARDS APPEALS BOARD.

A. Establishment. There is hereby established a Traffic Performance Standards Appeals Board.

B. Powers and Duties. The Traffic Performance Standards Appeals Board shall have the following powers and duties under the provisions of this Code.

1. To hear and decide appeals from decisions of the County Engineer or a Municipal Engineer pursuant to Sec. 15.1, Traffic Performance Standards; and

2. To submit an Annual Report to the Board of County Commissioners summarizing its annual activities.

C. Board Membership.

1. **Qualifications.** There shall be five (5) members of the Traffic Performance Standards Appeals Board. They shall consist of the Director of the Metropolitan Planning Organization, a professional Traffic Engineer employed by a municipality in Palm Beach County as a Traffic Engineer, a professional Traffic Engineer employed by another Florida County, a professional Traffic Engineer employed by FDOT District IV, and a professional Traffic Engineer who generally represents developers. Any person serving on the Traffic Performance Standards Appeals Board shall not be a person who participated in the decision being appealed, or shall not work for or be retained by a party to an appeal, or be a person who would be directly affected by the matter being appealed.

2. **Appointment.** Except for the Metropolitan Planning Organization Director, members of the Traffic Performance Standards Appeals Board shall be appointed by the Board of County Commissioners.

3. **Terms of office.** All Traffic Performance Standards Appeals Board members shall serve a term of four (4) years. There shall be no limit on the number of terms a person may serve. All members serving on the Traffic Performance Standards Appeals Board on the effective date of this Code shall complete their terms according to their prior appointments.

4. **Removal from office.** In the event that any Traffic Performance Standards Appeals Board member is convicted of a felony or an offense involving moral turpitude while in office, the Board of County Commissioners shall terminate the appointment of such person as a member of the Traffic Performance Standards Appeals Board. If any member of the Traffic Performance Standards Appeals Board fails to attend three (3) consecutive regularly scheduled meetings without an excused absence, or one-half (½) of the meetings within a calendar year, that member shall be automatically terminated and a new member shall be appointed to the Traffic Performance Standards Appeals Board. Participation for less than three-fourths (3/4) of a meeting shall constitute lack of attendance.

5. **Vacancy.**

   a. When a Traffic Performance Standards Appeals Board member resigns or is removed, the Board of County Commissioners shall fill the vacancy within twenty (20) working days.

   b. Any appointment to fill any vacancy shall be for the remainder of the unexpired term of office.

6. **Conflict of Interest.**

   a. **General.** No Traffic Performance Standards Appeals Board member shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activities, or incur any obligation of any nature which is in substantial conflict with the proper discharge of duties as a member of the Traffic Performance Standards Appeals Board.

   b. **Implementation.** To implement this policy and strengthen the faith and confidence of the citizens of Palm Beach County, members of the Traffic Performance Standards Appeals Board are directed:

      (1) To be governed by the applicable provisions of the Palm Beach County Ethics Ordinance, upon adoption of such ordinance.
      (2) Not to accept any gift, favor or service that might reasonably tend to improperly influence the discharge of official duties.
      (3) To make known by written or oral disclosure, on the record at a Traffic Performance Standards Appeals Board meeting, any interest which the member has in any pending matter before the Traffic Performance Standards Appeals Board, before any deliberation on that matter.
      (4) To abstain from using membership on the Traffic Performance Standards Appeals Board to secure special privileges or exemptions.
      (5) To refrain from engaging in any business or professional activity which might reasonably be expected to require disclosure of information acquired by membership on the Traffic Performance Standards Appeals Board not available to members of the general public, and to refrain from using such information for personal gain or benefit.
      (6) To refrain from accepting employment which might impair independent judgment in the performance of responsibilities as a member of the Traffic Performance Standards Appeals Board.
      (7) To refrain from accepting or receiving any additional compensation from any source other than Palm Beach County for duties performed as a member of the Traffic Performance Standards Appeals Board.

(8) To refrain from transacting any business in an official capacity as a member of the Traffic Performance Standards Appeals Board with any business entity of which the member is an officer, director, agent or member, or in which the member owns a controlling interest.

(9) To refrain from participation in any matter in which the member has a personal investment which will create a substantial conflict between private and public interests.

c. **Board action.** Willful violation of this subsection which affects a vote of a Traffic Performance Standards Appeals Board member shall render that action voidable by the Board of County Commissioners.

D. Officers.

1. **Chairman and vice-chairman.** At an annual organizational meeting, the members of the Traffic Performance Standards Appeals Board shall elect one (1) of their members as Chairman and one (1) as Vice-Chairman. In the absence of the Chairman, the Vice-Chairman shall act as Chairman and shall have all powers of the Chairman. The Chairman shall serve a term of one (1) year. No member shall serve as Chairman for more than two (2) consecutive terms. The Chairman shall administer oaths, shall be in charge of all proceedings before the Traffic Performance Standards Appeals Board, and shall take such action as shall be necessary to preserve the order and the integrity of all proceedings before the Traffic Performance Standards Appeals Board.

2. **Secretary.** The County Engineer shall serve as Secretary of the Traffic Performance Standards Appeals Board. The Secretary shall keep minutes of all proceedings of the Traffic Performance Standards Appeals Board, which minutes shall be a summary of all proceedings before the Traffic Performance Standards Appeals Board, attested to by the Secretary, which shall include the vote of each member upon every question. The minutes shall be approved by a majority of the members of the Traffic Performance Standards Appeals Board voting when a quorum is present. In addition, the Secretary shall maintain all records of the Traffic Performance Standards Appeals Board, meetings, and proceedings and the correspondence of the Traffic Performance Standards Appeals Board. The records of the Traffic Performance Standards Appeals Board shall be stored with the agency serving as Secretary herein, and shall be available for inspection by the public, upon reasonable request, during normal business hours.

3. **Staff.** The County Engineer's office shall be the professional staff of the Traffic Performance Standards Appeals Board.

4. **County attorney.** The County Attorney's Office shall provide counsel and interpretation on legal issues.

5. **Quorum and voting.** No meeting of the Traffic Performance Standards Appeals Board shall be called to order, nor may any business be transacted by the Traffic Performance Standards Appeals Board, without a quorum consisting of at least three (3) members of the Traffic Performance Standards Appeals Board being present. A majority of the quorum present shall be necessary for the Traffic Performance Standards Appeals Board to take action. In the event of a tie vote, the proposed motion shall be considered to have failed. No member shall abstain from voting unless there is a conflict of interest pursuant to this Article, or Sec. 112.01 et. seq., Fla. Stat.

6. **Rules of procedure.** The Traffic Performance Standards Appeals Board may, by a majority vote of the entire membership, adopt additional rules of procedure for the transaction of business and shall keep a record of meetings, resolutions, findings and determinations. The Traffic Performance Standards Appeals Board may provide for transcription of such proceedings, or portions or proceedings, as may be deemed necessary.

[Ord. No. 95-8]

E. Meetings.

1. **General or special meetings.** General meetings of the Traffic Performance Standards Appeals Board shall be held as needed to dispense of matters properly before the Traffic Performance Standards Appeals Board. Special meetings may be called by the Chairman of the Traffic Performance Standards Appeals Board, or in writing by three (3) members of the Board. Twenty four (24) hour written notice shall be given to each Traffic Performance Standards Appeals Board member for a special meeting.

2. **Location.** The location of meetings shall be in Palm Beach County, Florida.

3. **Continuance.** If a matter is postponed due to lack of a quorum, the Chairman shall continue the meeting to the next regularly scheduled Traffic Performance Standards Appeals Board meeting. The Secretary shall notify all members of the date of the continued meeting and also shall notify all parties.

4. **Meetings open to public.** All meetings and public hearings of the Traffic Performance Standards Appeals Board shall be open to the public.

5. **Notice.** Public hearings shall be set for a time certain after due public notice.

6. **Annual Report.** The Traffic Performance Standards Appeals Board shall submit an Annual Report to the Board of County Commissioners. The form, substance, and submittal dates for the Annual Report shall be established by a Policy and Procedure Memorandum (PPM).

F. Compensation. The members of the Traffic Performance Standards Appeals Board shall receive no compensation for their services. Travel reimbursements are limited to expenses incurred only for travel outside Palm Beach County necessary to fulfill the responsibilities of membership on the Traffic Performance Standards Appeals Board. Travel reimbursement shall be made only when sufficient funds have been budgeted and are available, and upon the prior approval of the Board of County Commissioners. No other expenses are reimbursable except documented long distance telephone calls to County staff to fulfill the responsibilities of membership on the Traffic Performance Standards Appeals Board.

[Ord. No. 95-8; March 21, 1995]

SEC. 4.7 DEVELOPMENT REVIEW APPEALS BOARD.

A. Establishment. There is hereby established a Development Review Appeals Board.

B. Powers and duties. The Development Review Appeals Board shall have the following powers and duties under the provisions of this Code.

1. To hear, consider and decide appeals, decisions of the Zoning Director on applications for Certificates of Concurrency Reservation and Concurrency Exemption Extension; and

2. To hear, consider and decide appeals from decisions of the Planning Director on applications for Entitlement Density, and Voluntary Density Bonus and

3. To hear and decide appeals from, decisions of, and conditions imposed by the Development Review Committee with regard to action taken on an application for a final development permit.

4. To set policy for the Development Review Committee.

[Ord. No. 95-8]

C. Board membership. The Development Review Appeals Board shall consist of the Executive Director of PZB, the County Engineer, and the County Attorney or Deputy County Attorney.

D. Officers; quorum; rules of procedure.

1. **Chairman and vice-chairman.** The Executive Director of PZB shall be the Chairman of the Development Review Appeals Board. The Chairman shall be in charge of all proceedings before the Development Review Appeals Board, shall decide all points of order on procedure, and shall take such action as shall be necessary to preserve the order and integrity of all proceedings before the Development Review Appeals Board.

2. **Staff.** PZB staff shall be the professional staff for the Development Review Appeals Board. The staff shall keep minutes of all proceedings, which minutes shall be a summary of all proceedings before the Development Review Appeals Board, which shall include the vote of all members upon every question, and be attested to by the Secretary. The minutes shall be approved by a majority of the Development Review Appeals Board members voting. In addition, the staff shall maintain all records of Development Review Appeals Board meetings, hearings, proceedings, and the correspondence of the Development Review Appeals Board. The records of the Development Review Appeals Board shall be stored with the agency serving as secretary herein, and shall be available for inspection by the public, upon reasonable request, during normal business hours.

3. **County attorney.** The County Attorney's Office shall provide counsel and interpretation on legal issues.

4. **Quorum and voting.** No meeting of the Development Review Appeals Board shall be called to order, nor may any business be transacted by the Development Review Appeals Board without a quorum consisting of at least two (2) members of the Development Review Appeals Board being present. All actions shall require a simple majority of the Development Review Appeals Board members present. In the event of a tie vote, the proposed motion shall be continued to the next meeting.

5. **Rules of procedure.** The Development Review Appeals Board shall, by a majority vote of the entire membership, adopt rules of procedure for the transaction of business and shall keep a record of meetings, findings and determinations. No appeal shall be considered more than six (6) months after the issuance of the final decision of the Planning Director or the Development Review Committee.

E. Meetings.

1. **General.** General meetings of the Development Review Appeals Board shall be held as needed to dispose of matters properly before the Development Review Appeals Board. Special meetings may be called by the Chairman or in writing by two (2) members of the Development Review Appeals Board. Twenty-four (24) hour written notice shall be given to all Development Review Appeals Board members.

2. **Location.** The location of all meetings shall be in Palm Beach County, Florida.

3. **Continuance.** If a matter is postponed due to lack of a quorum, the Chairman shall continue the meeting to the next regularly scheduled Development Review Appeals Board meeting. The Secretary shall notify all members of the date of the continued hearing and also shall notify all parties.

4. **Meetings open to public.** All meetings and hearings of the Development Review Appeals Board shall be open to the public.

5. **Notice.** Public meetings shall be set for a time certain with due public notice.

F. Compensation. Development Review Appeals Board members shall receive no additional compensation above their normal salaries for their services to the Development Review Appeals Board.

SEC. 4.8 IMPACT FEE REVIEW COMMITTEE.

A. Establishment. There is hereby created an Impact Fee Review Committee.

B. Powers and duties. The Impact Fee Review Committee shall have the following powers and duties under the provisions of this Code:

1. To submit a Report to the Board of County Commissioners by August 15 of each year relating to:

   a. The implementation of Art. 10, Impact Fees;

   b. Actual levels of service for the impact fees exacted in Art. 10, Impact Fees;

   c. The collection, encumbrance, and expenditure of all impact fees collected pursuant to Art. 10, Impact Fees;

   d. The validity of the assumptions in the technical memoranda used to support the impact fee schedules in Art 10, Impact Fees; and

   e. Any recommended amendment to Art. 10, Impact Fees.

2. To review amendments to Art. 10, Impact Fees, prior to their consideration by the Board of County Commissioners.

3. To perform such other duties as the Board of County Commissioners deems appropriate.

C. **Board Membership.**

1. **Qualifications.** Members of the Impact Fee Review Committee shall be qualified electors of Palm Beach County for two (2) years prior to appointment. No member of the Board of County Commissioners or a County employee, including a Board of County Commission aide, shall serve on the Impact Fee Review Committee. The Impact Fee Review Committee shall be composed of eleven (11) members. The membership of the Impact Fee Review Committee shall include four (4) representatives from municipalities within the County, four (4) representatives from the business community, and three (3) members selected at large.

2. **Appointment.** Members of the Impact Fee Review Committee shall be appointed by the Board of County Commissioners.

3. **Terms of office.**

   a. All Impact Fee Review Committee members shall serve a term of three (3) years. All members serving on the Impact Fee Review Committee on the effective date of this Code shall complete their terms according to their prior appointments.

   b. There shall be no limit on the number of terms a person may serve on the Impact Fee Review Committee.

   c. The maximum number of boards and commissions that a person appointed by the Board of County Commissioners may serve on at one (1) time shall be three (3). Members affected by this provision shall be governed by Resolution No. 91-1003.

   d. Members of the Impact Fee Review Committee shall not be prohibited from qualifying as a candidate for elected office.

4. **Removal from office.**

   a. In the event that any Impact Fee Review Committee member is convicted of a felony or an offense involving moral turpitude while in office, the Board of County Commissioners shall terminate the appointment of such person as a member of the Impact Fee Review Committee.

   b. Any member who fails to attend three (3) consecutive regular meetings without an excused absence or one-half (½) of the meetings within a calendar year shall automatically forfeit the appointment, and the Board of County Commissioners shall promptly fill such vacancy. Participation for less than three-fourths (3/4) of a meeting shall constitute lack of attendance.

   c. Excused absence constitutes absence due to illness, absence from Palm Beach County, or personal hardship, if approved by a majority vote of the membership of the Impact Fee Review Committee. Excused absence shall be entered into the minutes at the next regularly scheduled meeting of the Impact Fee Review Committee.

d. Members removed from office shall be terminated immediately and not continue to serve until a new appointment is made by the Board of County Commissioners.

5. **Vacancy.**

a. When an Impact Fee Review Committee member resigns or is removed, the Board of County Commissioners shall fill the vacancy within thirty (30) days.

b. Any appointment to fill any vacancy shall be for the remainder of the unexpired term of office.

6. **Conflict of Interest.**

a. **General.** No Impact Fee Review Committee member shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activities, or incur any obligation of any nature which is in substantial conflict with the proper discharge of duties as a member of the Impact Fee Review Committee.

b. **Implementation.** To implement this policy and strengthen the faith and confidence of the citizens of Palm Beach County, members of the Impact Fee Review Committee are directed:

(1) To be governed by the applicable provisions of the Palm Beach County Ethics Ordinance, upon adoption of such ordinance.

(2) Not to accept any gift, favor or service that might reasonably tend to improperly influence the discharge of official duties.

(3) To make known by written or oral disclosure, on the record at an Impact Fee Review Committee meeting, any interest which the member has in any pending matter before the Impact Fee Review Committee, before any deliberation on that matter.

(4) To abstain from using membership on the Impact Fee Review Committee to secure special privileges or exemptions.

(5) To refrain from engaging in any business or professional activity which might reasonably be expected to require disclosure of information acquired by membership on the Impact Fee Review Committee not available to members of the general public, and to refrain from using such information for personal gain or benefit.

(6) To refrain from accepting employment which might impair independent judgment in the performance of responsibilities as a member of the Impact Fee Review Committee.

(7) To refrain from accepting or receiving any additional compensation from any source other than Palm Beach County for duties performed as a member of the Impact Fee Review Committee.

(8) To refrain from transacting any business in an official capacity as a member of the Impact Fee Review Committee with any business entity of which the member is an officer, director, agent or member, or in which the member owns a controlling interest.

(9) To refrain from participation in any matter in which the member has a personal investment which will create a substantial conflict between private and public interests.

c. **Board action.** Willful violation of this subsection which affects a vote of an Impact Fee Review Committee member shall render that action voidable by the Board of County Commissioners.

D. Officers.

1. **Chairman and vice-chairman.** At an annual organizational meeting, the members of the Impact Fee Review Committee shall elect one (1) of their members as Chairman and one (1) as Vice-Chairman. In the absence of the Chairman, the Vice-Chairman shall act as Chairman and shall have all powers of the Chairman. The Chairman shall serve a term of one (1) year. No member shall serve as Chairman for more than two (2) consecutive terms. The Chairman shall be in charge of all proceedings before the Impact Fee Review Committee, and shall take such action as shall be necessary to preserve the order and the integrity of all proceedings before the Impact Fee Review Committee.

2. **Secretary**. The Impact Fee Coordinator shall serve as Secretary of the Impact Fee Review Committee. The Secretary shall keep minutes of all proceedings of the Impact Fee Review Committee, which minutes shall be a summary of all proceedings before the Committee, attested to by the Secretary, and which shall include the vote of each member upon every question. The minutes shall be approved by a majority of the members of the Impact Fee Review Committee voting when a quorum is present. In addition, the Secretary shall maintain all records of the Impact Fee Review Committee meetings, and proceedings and the correspondence of the Impact Fee Review Committee. The records of the Impact Fee Review Committee shall be stored with the agency serving as Secretary herein, and shall be available for inspection by the public, upon reasonable request, during normal business hours.

3. **Staff**. The staff of the Impact Fee Review Committee shall be the professional staff of the Impact Fee Coordinator.

4. **County attorney.** The County Attorney's Office shall provide counsel and interpretation on legal issues.

5. **Quorum and voting.** No meeting of the Impact Fee Review Committee shall be called to order, nor may any business be transacted by the Impact Fee Review Committee, without a quorum consisting of a majority of appointed members of the Impact Fee Review Committee being present. A majority of the quorum present shall be necessary for the Impact Fee Review Committee to take action. In the event of a tie vote, the proposed motion shall be considered to have failed. No member shall abstain from voting unless there is a conflict of interest pursuant to this Article, or Sec. 112.01 et. seq., Fla. Stat.

6. **Rules of procedure.** All meetings shall be governed by Robert's Rules of Order. The Impact Fee Review Committee may, by a majority vote of the entire membership, adopt additional rules of procedure for the transaction of business and shall keep a record of meetings, resolutions, finding and determinations. The Impact Fee Review Committee may provide for transcription of such proceedings, or portions of proceedings, as may be deemed necessary.

E. Meetings.

1. **General or special meetings.** General meetings of the Impact Fee Review Committee shall be held no less frequently than once every three (3) months. Special meetings may be called by the Chairman of the Impact Fee Review Committee, or in writing by a majority of appointed members of the Impact Fee Review Committee. Twenty four (24) hour written notice shall be given to each Impact Fee Review Committee member for a special meeting.

2. **Location.** The location of meetings shall be in Palm Beach County, Florida.

3. **Continuance.** If a matter is postponed due to lack of a quorum, the Chairman shall continue the meeting to the next regularly scheduled Impact Fee Review Committee meeting. The Secretary shall notify all members of the date of the continued meeting.

4. **Meetings open to public.** All meetings of the Impact Fee Review Committee shall be open to the public.

5. **Annual Report.** The Impact Fee Review Committee shall submit an Annual Report to the Board of County Commissioners. The form, substance, and submittal dates for the Annual Report shall be established by a Policy and Procedure Memorandum (PPM).

F. Compensation. The members of the Impact Fee Review Committee shall receive no compensation for their services. Travel reimbursements are limited to expenses incurred only for travel outside Palm Beach County necessary to fulfill responsibilities of membership on the Impact Fee Review Committee. Travel reimbursement shall be made only when sufficient funds have been budgeted and are available, and upon the prior approval of the Board of County Commissioners. No other expenses are reimbursable except documented long distance telephone calls to the staff to fulfill he responsibilities of membership on the Impact Fee Review Committee.

[Ord. No. 95-8; March 21, 1995]

SEC. 4.9 IMPACT FEE APPEALS BOARD.

A. Establishment. There is hereby established an Impact Fee Appeals Board.

B. Powers and duties. The Impact Fee Appeals Board shall have the following powers and duties:

1. To hear and decide appeals from decisions of the Impact Fee Coordinator on independent calculation studies pursuant to Art. 10, Impact Fees; and

2. To hear and decide appeals from an interpretation of the Impact Fee Coordinator on Art. 10, Impact Fees.

C. **Board membership.**

1. **Qualifications.** Members of the Impact Fee Appeals Board shall be qualified electors of Palm Beach County for two (2) years prior to appointment. No member of the Board of County Commissioners, or a County employee including a Board of County Commission aide shall serve on the Impact Fee Appeals Board. The Impact Fee Appeals Board shall be composed of five (5) members. There shall be one (1) traffic engineer, one (1) accountant, one (1) attorney, one (1) representative of the general public, and one (1) developer/builder on the Impact Fee Appeals Board.

2. **Appointment.** The members of the Impact Fee Appeals Board shall be approved at large by a majority vote of the Board of County Commissioners. No member of the Impact Fee Review Committee may serve on the Impact Fee Appeals Board.

3. **Terms of office.**

   a. All Impact Fee Appeals Board members shall serve a term of three (3) years. All members serving on the Impact Fee Appeals Board on the effective date of this Code shall complete their terms according to their prior appointments.

   b. There shall be no limit on the number of terms a person may serve on the Impact Fee Appeals Board.

   c. The maximum number of boards and commissions a person appointed by the Board of County Commissioners may serve on at one time shall be three (3). Members affected by this provision shall be governed by Palm Beach County Ordinance No. 91-38 and Palm Beach County Resolution No. 91-1003, as amended.

   d. Impact Fee Appeals Board members shall not be prohibited from qualifying as a candidate for elected office.

4. **Removal from office.**

   a. In the event that any Impact Fee Appeals Board member is no longer a resident of Palm Beach County, or the member is convicted of a felony or an offense involving moral turpitude while in office, the Board of County Commissioners shall terminate the appointment of such person as a member of the Impact Fee Appeals Board.

   b. Members of the Impact Fee Appeals Board shall be subject to removal from office by the Board of County Commissioners for nonfeasance, malfeasance, misfeasance, or for other good cause shown to the Board of County Commissioners.

   c. If any member fails to attend three (3) consecutive regular meetings without excuse and without providing prior notice to the Impact Fee Coordinator or the Chairman of the Impact Fee Appeals Board, the Impact Fee Appeals Board may declare the member's seat vacant.

d. Excused absence constitutes absence due to illness, absence from Palm Beach County, or personal hardship, if approved by a majority vote of the membership of the Impact Fee Review Committee. Excused absence shall be entered into the minutes at the next regularly scheduled meeting of the Impact Fee Appeals Board.

e. Members removed from office shall be terminated immediately and not continue to serve until a new appointment is made by the Board of County Commissioners.

5. **Vacancy.**

a. When a member resigns or is removed, the Board of County Commissioners shall fill the vacancy within thirty (30) days.

b. Any appointment to fill any vacancy shall be for the remainder of the unexpired term of office.

6. **Conflict of interest.** No member of the Impact Fee Appeals Board shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activities, or incur any obligation of any nature which is in substantial conflict with the proper discharge of duties in the public interest.

a. **General.** No Impact Fee Appeals Board member shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activities, or incur any obligation of any nature which is in substantial conflict with the proper discharge of duties as a member of the Impact Fee Appeals Board.

b. **Implementation.** To implement this policy and strengthen the faith and confidence of the citizens of Palm Beach County, members of the Impact Fee Appeals Board are directed:

(1) To be governed by the applicable provisions of the Palm Beach County Ethics Ordinance, upon adoption of such ordinance.
(2) Not to accept any gift, favor or service that might reasonably tend to improperly influence the discharge of official duties.
(3) To make known by written or oral disclosure, on the record at a Impact Fee Appeals Board meeting, any interest which the member has in any pending matter before the Impact Fee Appeals Board, before any deliberation on that matter.
(4) To abstain from using membership on the Impact Fee Appeals Board to secure special privileges or exemptions.
(5) To refrain from engaging in any business or professional activity which might reasonably be expected to require disclosure of information acquired by membership on the Impact Fee Appeals Board not available to members of the general public, and to refrain from using such information for personal gain or benefit.
(6) To refrain from accepting employment which might impair independent judgment in the performance of responsibilities as a member of the Impact Fee Appeals Board.
(7) To refrain from accepting or receiving any additional compensation from any source other than Palm Beach County for duties performed as a member of the Impact Fee Appeals Board.

(8) To refrain from transacting any business in an official capacity as a member of the Impact Fee Appeals Board with any business entity of which the member is an officer, director, agent or member, or in which the member owns a controlling interest.

(9) To refrain from participation in any matter in which the member has a personal investment which will create a substantial conflict between private and public interests.

c. **Board action.** Willful violation of this subsection which affects a vote of a Impact Fee Appeals Board member shall render that action voidable by the Board of County Commissioners.

D. Officers; quorum; rules of procedure.

1. **Chairman and vice-chairman.** At an annual organizational meeting, the members of the Impact Fee Appeals Board shall elect one (1) of their members as Chairman and one (1) as Vice-Chairman. In the absence of the Chairman, the Vice-Chairman shall act as Chairman and shall have all powers of the Chairman. The Chairman and Vice-Chairman shall serve a term of one (1) year, but may be re-elected at the discretion of the members of the Impact Fee Appeals Board. No member shall serve as Chairman for more than two (2) consecutive terms. The Chairman shall administer oaths, shall be in charge of all proceedings before the Impact Fee Appeals Board, and shall take such action as shall be necessary to preserve the order and the integrity of all proceedings before the Impact Fee Appeals Board.

2. **Secretary.** The Impact Fee Coordinator shall serve as Secretary of the Impact Fee Appeals Board. The Secretary shall keep minutes of all proceedings of the Impact Fee Appeals Board, which minutes shall be a summary of all proceedings before the Impact Fee Appeals Board, attested to by the Secretary, and which shall include the vote of each member upon every question. The minutes shall be approved by a majority of the members of the Impact Fee Appeals Board voting when a quorum is present. The Secretary shall maintain all records of the Impact Fee Appeals Board, meetings, hearings and proceedings, and the correspondence of the Impact Fee Appeals Board. The records of the Impact Fee Appeals Board shall be stored with the Impact Fee Coordinator, and shall be available for inspection by the public, upon reasonable request, during normal business hours.

3. **Staff.** The staff of the PZB Department shall be the professional staff of the Impact Fee Appeals Board. The County Attorney shall attend meetings to serve as counsel to the Impact Fee Appeals Board. The Impact Fee Coordinator shall represent Palm Beach County by presenting the County's position to the Impact Fee Appeals Board.

4. **County attorney.** The County Attorney's Office shall provide counsel and interpretation on legal issues.

5. **Quorum and voting.** No meeting of the Impact Fee Appeals Board shall be called to order, nor may any business be transacted by the Impact Fee Appeals Board, without a quorum consisting of a majority of members of the Impact Fee Appeals Board being present. A majority vote of the quorum present, plus one, shall be necessary for the Impact Fee Appeals Board to take action, except that at least three (3) members of the Impact Fee Appeals Board must vote for an action to be valid. In the event of a tie vote, the proposed motion shall be considered to have failed. No member shall abstain from voting unless there is a conflict of interest pursuant to this Article, or Sec. 112.01 et. seq., Fla. Stat.

6. **Rules of procedure.** The Impact Fee Appeals Board may, by a majority vote of the entire membership, adopt additional rules of procedure for the transaction of business and shall keep a record of meetings, resolutions, findings and determinations. The Impact Fee Appeals Board may provide for transcription of such hearings and proceedings, or portions or hearings and proceedings, as may be deemed necessary.

[Ord. No. 95-8]

E. Meetings.

1. **General.** General meetings of the Impact Fee Appeals Board will be called as necessary to carry out business, but no more frequently than once a month. Special meetings may be called by the Chairman of the Impact Fee Appeals Board, or in writing by a majority of appointed members of the Board. Twenty four (24) hour written notice shall be given to each Impact Fee Appeals Board member for a special meeting.

2. **Location.** The location of meetings shall be in Palm Beach County, Florida.

3. **Operating procedures.** All cases brought before the Impact Fee Appeals Board shall be presented by the person making the appeal, or that person's agent.

4. **Continuance.** If a matter is postponed due to lack of a quorum, the Chairman shall continue the meeting to the next regularly scheduled Impact Fee Appeals Board meeting. The Secretary shall notify all members of the date of the continued meeting and also shall notify all parties.

5. **Meetings open to public.** All meetings and public hearings of the Impact Fee Appeals Board shall be open to the public.

6. **Notice.** Public hearings shall be set for a time certain after due public notice.

7. **Annual Report.** The Impact Fee Appeals Board shall submit an Annual Report to the Board of County Commissioners on June 1. The form, substance, and submittal dates for the Annual Report shall be established by a Policy and Procedure Memorandum (PPM).

F. Compensation. The members of the Impact Fee Appeals Board shall receive no compensation for their services. Travel reimbursements are limited to expenses incurred only for travel outside Palm Beach County necessary to fulfill the responsibilities of membership on the Impact Fee Appeals Board. Travel reimbursement shall be made only when sufficient funds have been budgeted and are available, and upon the prior approval of the Board of County Commissioners. No other expenses are reimbursable except documented long distance telephone calls to the County staff to fulfill the responsibilities of membership on the Impact Fee Appeals Board.

[Ord. No. 95-8; March 21, 1995]

SEC. 4.10 ENVIRONMENTAL APPEALS BOARD.

A. **Establishment**. There is hereby established an Environmental Appeals Board.

B. **Powers and Duties**. The Environmental Appeals Board has the following powers and duties:

1. To hear appeals from certain requirements, interpretations or determinations of Sec. 16.1 and 16.2 (ECR I and II) of this Code, made by the PBCPHU or the Environmental Control Officer. **[Ord. No. 95-8]**

C. **Board Membership.**

1. **Qualifications**. Members of the Environmental Appeals Board shall be qualified electors of Palm Beach County for two (2) years prior to appointment. No member of the Board of County Commissioners or a County employee including a Board of County Commission aide shall serve on the Environmental Appeals Board. The Environmental Appeals Board shall be composed of five (5) members. The membership of the Environmental Appeals Board shall consist of one (1) professional engineer registered by the State of Florida and nominated by the Palm Beach branch of the American Society of Civil Engineers, one (1) water resource professional employed by SFWMD, one (1) drinking water engineer employed by the DER, one (1) member of the Palm Beach County Home Builders and Contractors Association, and one (1) attorney nominated by the Palm Beach County Bar Association.

2. **Appointment**. Members of the Environmental Appeals Board shall be appointed by the Board of County Commissioners.

3. **Terms of office**.

   a. All Environmental Appeals Board members shall serve a term of three (3) years. All members serving on the Environmental Appeals Board on the effective date of this Code shall complete their terms according to their prior appointments.
   b. There shall be no limit on the number of terms a person may serve.

   c. The maximum number of boards and commissions a person appointed by the Board of County Commissioners may serve on at one (1) time shall be three (3). Members affected by this provision shall be governed by Palm Beach County Resolution No. 91-1003, as amended.

   d. Environmental Appeals Board members shall not be prohibited from qualifying as a candidate for elected office.

4. **Removal from office**.

   a. Members of the Environmental Appeals Board may be suspended or removed by the Board of County Commissioners, with or without cause at any time.

b. In the event that any Environmental Appeals Board member is convicted of a felony or an offense involving moral turpitude while in office, the Board of County Commissioners shall terminate the appointment of such person as a member of the Environmental Appeals Board.

c. If any member of the Environmental Appeals Board fails to attend two (2) of three (3) consecutive meetings without an excused absence, the Chairman of the Environmental Appeals Board shall recommend to the Board of County Commissioners that the member's seat should be vacated Participation for less than three-fourths (3/4) of a meeting shall constitute lack of attendance.

d. Excused absence constitutes absence due to illness, absence from Palm Beach County, or personal hardship, if approved by a majority vote of the Environmental Appeals Board. Excused absence shall be entered into the minutes at the next regularly scheduled meeting of the Environmental Appeals Board.

e. Members removed from office shall be terminated immediately and shall not continue to serve until a new appointment is made by the Board of County Commissioners.

5. **Vacancy.**

a. When an Environmental Appeals Board member resigns or is removed, the Board of County Commissioners shall accept nominations and shall fill the vacancy within thirty (30) days.

b. Any appointment to fill any vacancy shall be for the remainder of the unexpired term of office.

6. **Conflict of interest.**

a. **General.** No Environmental Appeals Board member shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activities, or incur any obligation of any nature which is in substantial conflict with the proper discharge of duties as a member of the Environmental Appeals Board.

b. **Implementation.** To implement this policy and strengthen the faith and confidence of the citizens of Palm Beach County, members of the Environmental Appeals Board are directed:

(1) To be governed by the applicable provisions of the Palm Beach County Ethics Ordinance, upon adoption of such ordinance.
(2) Not to accept any gift, favor or service that might reasonably tend to improperly influence the discharge of official duties.
(3) To make known by written or oral disclosure, on the record at an Environmental Appeals Board meeting, any interest which the member has in any pending matter before the Environmental Appeals Board, before any deliberation on that matter.
(4) To abstain from using membership on the Environmental Appeals Board to secure special privileges or exemptions.

(5) To refrain from engaging in any business or professional activity which might reasonably be expected to require disclosure of confidential information acquired by membership on the Environmental Appeals Board not available to members of the general public, and to refrain from using such information for personal gain or benefit.

(6) To refrain from accepting employment which might impair independent judgment in the performance of responsibilities as a member of the Environmental Appeals Board.

(7) To refrain from accepting or receiving any additional compensation from any source other than Palm Beach County for duties performed as a member of the Environmental Appeals Board.

(8) To refrain from transacting any business in an official capacity as a member of the Environmental Appeals Board with any business entity of which the member is an officer, director, agent or member, or in which the member owns a controlling interest.

(9) To refrain from participation in any matter in which the member has a personal investment which will create a substantial conflict between private and public interests.

c. **Board action.** Willful violation of this subsection which affects a vote of an Environmental Appeals Board member shall render that action voidable by the Board of County Commissioners.

D. Officers.

1. **Chairman and vice-chairman.** At an annual organizational meeting, the members of the Environmental Appeals Board shall elect one (1) of their members as Chairman and one (1) as Vice-Chairman. In the absence of the Chairman, the Vice-Chairman shall act as Chairman and shall have all powers of the Chairman. The Chairman shall serve a term of one (1) year. Any member may be re-elected as Chairman at the discretion of the Environmental Appeals Board. The Chairman shall administer oaths, shall be in charge of all proceedings before the Environmental Appeals Board, and shall take such action as shall be necessary to preserve the order and the integrity of all proceedings before the Environmental Appeals Board.

2. **Secretary.** The County Environmental Control Officer shall provide a staff person to the Environmental Appeals Board and that staff member shall be designated as Secretary of the Environmental Appeals Board. The Secretary shall keep minutes of all proceedings of the Environmental Appeals Board, which minutes shall be a summary of all proceedings before the Environmental Appeals Board, attested to by the Secretary, and which shall include the vote of each member upon every question. The minutes shall be approved by a majority of the members of the Environmental Appeals Board voting when a quorum is present. In addition, the Secretary shall maintain all records of the Environmental Appeals Board, meetings, hearings and proceedings and the correspondence of the Environmental Appeals Board. The records of the Environmental Appeals Board shall be stored in the Office of the Environmental Control Officer, and shall be available for inspection by the public, upon reasonable request, during normal business hours

3. **Staff.** The PBCPHU shall be the professional staff of the Environmental Appeals Board.

4. **County attorney.** The County Attorney's Office shall provide counsel and interpretation on legal issues.

5. **Quorum and voting.** No meeting of the Environmental Appeals Board shall be called to order, nor may any business be transacted by the Environmental Appeals Board, without a quorum consisting of a majority of the members of the Environmental Appeals Board being present. A majority of the quorum present shall be necessary for the Environmental Appeals Board to take action. In the event of a tie vote, the proposed motion shall be considered to have failed. No member shall abstain from voting unless there is a conflict of interest pursuant to this Article, or Sec. 112.01 et. seq., Fla. Stat.

6. **Rules of procedure.** The Environmental Appeals Board may, by a majority vote of the entire membership, adopt additional rules of procedure for the transaction of business and shall keep a record of meetings, resolutions, findings and determinations. The Environmental Appeals Board may provide for transcription of such hearings and proceedings, or portions of hearings and proceedings, as may be deemed necessary.

[Ord. No. 95-8]

E. Meetings.

1. **General or special meetings.** General meetings of the Environmental Appeals Board shall be held no less frequently than once every sixty (60) days. Special meetings may be called by the Chairman of the Environmental Appeals Board, or in writing by a majority of the members of the Board. Twenty four (24) hour written notice shall be given to each Environmental Appeals Board member for a special meeting.

2. **Location.** The location of meetings shall be in Palm Beach County, Florida.

3. **Continuance.** If a matter is postponed due to lack of a quorum, the Chairman shall continue the meeting to the next regularly scheduled Environmental Appeals Board meeting. The Secretary shall notify all members of the date of the continued meeting and also shall notify all parties.

4. **Meetings open to public.** All meetings and public hearings of the Environmental Appeals Board shall be open to the public.

5. **Notice.** Public hearings shall be set for a time certain after due public notice.

6. **Annual Report.** The Environmental Appeals Board shall submit an Annual Report to the Board of County Commissioners. The form, substance, and submittal dates for the Annual Report shall be established by a Policy and Procedure Memorandum (PPM).

F. Compensation. The members of the Environmental Appeals Board shall receive no compensation for their services. Travel reimbursements are limited to expenses incurred only for travel outside Palm Beach County necessary to fulfill the responsibilities of membership on the Environmental Appeals Board. Travel reimbursement shall be made only when sufficient funds have been budgeted and are available, and upon the prior approval of the Board of County Commissioners. No other expenses are reimbursable except documented long distance telephone calls to the County staff, that are necessary to fulfill the responsibilities of membership on the Environmental Appeals Board.

[Ord. No. 95-8; March 21, 1995]

SEC. 4.11 ENVIRONMENTAL ORDINANCE APPEALS BOARD.

A. **Establishment.** There is hereby established an Environmental Ordinance Appeals Board.

B. **Powers and Duties.** The Environmental Ordinance Appeals Board has the following powers and duties.

1. To hear and render decisions on appeals of final administrative determinations rendered under Sec. 9.2, Environmentally Sensitive Lands, and to have jurisdiction to conduct hearings and render decisions as required under applicable County environmental ordinances as may be provided by the Board of County Commissioners from time to time.

2. The Environmental Ordinance Appeals Board hears and makes decisions on appeals of all the ordinances found within Article 9 and Sections 7.5 (Vegetation Preservation and Protection) and 7.6 (Excavation).

C. **Board Membership.**

1. **Qualifications.** Members of the Environmental Ordinance Appeals Board shall be qualified electors of Palm Beach County for two (2) years prior to appointment. No member of the Board of County Commissioners or a County employee including a Board of County Commission aide shall serve on the Environmental Ordinance Appeals Board. The Environmental Ordinance Appeals Board shall be composed of five (5) members. The membership of the Environmental Ordinance Appeals Board shall consist of one (1) attorney licensed by the Florida Bar; one (1) biologist with demonstrated technical environmental expertise; one (1) representative of the development community in Palm Beach County; one (1) representative of an environmental organization active in Palm Beach County; and one (1) citizen not holding elective office and not a member of any of the preceding categories.

2. **Appointment.** Members of the Environmental Ordinance Appeals Board shall be appointed at-large by the Board of County Commissioners.

3. **Terms of office.**

a. All Environmental Ordinance Appeals Board members shall serve a term of three (3) years. All members serving on the Environmental Ordinance Appeals Board on the effective date of this Code shall complete their terms according to their prior appointments.

b. There shall be no limit on the number of terms a person may serve on the Environmental Ordinance Appeals Board.

c. The maximum number of boards and commissions a person appointed by the Board of County Commissioners may serve on at one (1) time shall be three (3). Members affected by this provision shall be governed by Palm Beach County Resolution No. 91-1003, as amended.

d. Environmental Ordinance Appeals Board members shall not be prohibited from qualifying as a candidate for elected office.

4. Removal from office.

a. Members of the Environmental Ordinance Appeals Board may be suspended or removed by the Board of County Commissioners, with or without cause.

b. In the event that any Environmental Ordinance Appeals Board member is convicted of a felony or an offense involving moral turpitude while in office, the Board of County Commissioners shall terminate the appointment of such person as a member of the Environmental Ordinance Appeals Board.

c. If any member of the Environmental Ordinance Appeals Board fails to attend two (2) of three (3) consecutive meetings without an excused absence, the Chairman of the Environmental Ordinance Appeals Board shall recommend to the Board of County Commissioners that the member's seat should be vacated. Participation for less than three-fourths (3/4) of a meeting shall constitute lack of attendance.

d. Excused absence constitutes excused absence due to illness, absence from Palm Beach County, or personal hardship, if approved by a majority vote of the Environmental Ordinance Appeals Board. Excused absence shall be entered into the minutes at the next regularly scheduled meeting of the Environmental Ordinance Appeals Board.

e. Members removed from office shall be terminated immediately and shall not continue to serve until a new appointment is made by the Board of County Commissioners.

5. Vacancy.

a. When an Environmental Ordinance Appeals Board member resigns or is removed, the Board of County Commissioners shall accept nominations and shall fill the vacancy within thirty (30) days.

b. Any appointment to fill any vacancy shall be for the remainder of the unexpired term of office.

6. Conflict of interest.

a. General. No Environmental Ordinance Appeals Board member shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activities, or incur any obligation of any nature which is in substantial conflict with the proper discharge of duties as a member of the Environmental Ordinance Appeals Board.

b. Implementation. To implement this policy and strengthen the faith and confidence of the citizens of Palm Beach County, members of the Environmental Ordinance Appeals Board are directed:

(1) To be governed by the applicable provisions of the Palm Beach County Ethics Ordinance, upon adoption of such ordinance.
(2) Not to accept any gift, favor or service that might reasonably tend to improperly influence the discharge of official duties.

(3) To make known by written or oral disclosure, on the record at an Environmental Ordinance Appeals Board meeting, any interest which the member has in any pending matter before the Environmental Ordinance Appeals Board, before any deliberation on that matter.

(4) To abstain from using membership on the Environmental Ordinance Appeals Board to secure special privileges or exemptions.

(5) To refrain from engaging in any business or professional activity which might reasonably be expected to require disclosure of confidential information acquired by membership on the Environmental Ordinance Appeals Board not available to members of the general public, and to refrain from using such information for personal gain or benefit.

(6) To refrain from accepting employment which might impair independent judgment in the performance of responsibilities as a member of the Environmental Ordinance Appeals Board.

(7) To refrain from accepting or receiving any additional compensation from any source other than Palm Beach County for duties performed as a member of the Environmental Ordinance Appeals Board.

(8) To refrain from transacting any business in an official capacity as a member of the Environmental Ordinance Appeals Board with any business entity of which the member is an officer, director, agent or member, or in which the member owns a controlling interest.

(9) To refrain from participation in any matter in which the member has a personal investment which will create a substantial conflict between private and public interests.

c. **Board action.** Willful violation of this subsection which affects a vote of an Environmental Ordinance Appeals Board member shall render that action voidable by the Board of County Commissioners.

D. Officers.

1. **Chairman and vice-chairman.** At an annual organizational meeting, the members of the Environmental Ordinance Appeals Board shall elect one (1) of their members as Chairman and one (1) as Vice-Chairman. In the absence of the Chairman, the Vice-Chairman shall act as Chairman and shall have all powers of the Chairman. The Chairman shall serve a term of one (1) year. Any member may be re-elected as Chairman at the discretion of the Environmental Ordinance Appeals Board. The Chairman shall administer oaths, shall be in charge of all proceedings before the Environmental Ordinance Appeals Board, and shall take such action as shall be necessary to preserve the order and the integrity of all proceedings before the Environmental Ordinance Appeals Board.

2. **Staff.** The County Attorney's Office shall serve as staff for the Environmental Ordinance Appeals Board. The staff shall keep minutes of all proceedings of the Environmental Ordinance Appeals Board, which minutes shall be a summary of all proceedings before the Environmental Ordinance Appeals Board, attested to by the staff and which shall include the vote of each member upon every question. The minutes shall be approved by a majority of the members of the Environmental Ordinance Appeals Board voting when a quorum is present. In addition, the staff shall maintain all records of the Environmental Ordinance Appeals Board, meetings, hearings and proceedings and the correspondence of the Environmental Ordinance Appeals Board. The records of the Environmental Ordinance Appeals Board shall be stored with the agency serving as staff herein, and shall be available for inspection by the public, upon reasonable request, during normal business hours.

3. **County attorney.** The County Attorney's Office shall provide counsel and interpretation on legal issues.

4. **Quorum and voting.** No meeting of the Environmental Ordinance Appeals Board shall be called to order, nor may any business be transacted by the Environmental Ordinance Appeals Board, without a majority of the members of the Environmental Ordinance Appeals Board being present. A majority of the quorum present shall be necessary for the Environmental Ordinance Appeals Board to take action. In the event of a tie vote, the proposed motion shall be considered to have failed. No member shall abstain from voting unless there is a conflict of interest pursuant to this Article, or Sec. 112.01 et. seq., Fla. Stat.

5. **Rules of procedure.** The Environmental Ordinance Appeals Board may, by a majority vote of the entire membership, adopt additional rules of procedure for the transaction of business and shall keep a record of meetings, resolutions, findings and determinations. The Environmental Ordinance Appeals Board may provide for transcription of such hearings and proceedings, or portions or hearings and proceedings, as may be deemed necessary.

[Ord. No. 93-4][Ord. No. 95-8]

E. Meetings.

1. **General or special meetings.** General meetings of the Environmental Ordinance Appeals Board shall be held no less frequently than once every three (3) months. Special meetings may be called by the Chairman of the Environmental Ordinance Appeals Board, or in writing by a majority of the members of the Board. Twenty four (24) hour written notice shall be given to each Environmental Ordinance Appeals Board member for a special meeting.

2. **Location.** The location of meetings shall be in Palm Beach County, Florida.

3. **Continuance.** If a matter is postponed due to lack of a quorum, the Chairman shall continue the meeting to the next regularly scheduled Environmental Ordinance Appeals Board meeting. The Secretary shall notify all members of the date of the continued meeting and also shall notify all parties.

4. **Meetings open to public.** All meetings and public hearings of the Environmental Ordinance Appeals Board shall be open to the public.

5. **Notice.** Public hearings shall be set for a time certain after due public notice.

6. **Annual Report.** The Environmental Ordinance Appeals Board shall submit an Annual Report to the Board of County Commissioners. The form, substance, and submittal dates for the Annual Report shall be established by a Policy and Procedure Memorandum (PPM).

F. Compensation. The members of the Environmental Ordinance Appeals Board shall receive no compensation for their services. Travel reimbursement is limited to expenses incurred only for travel outside Palm Beach County necessary to fulfill the responsibilities of membership on the Environmental Ordinance Appeals Board. Travel reimbursement shall be made only when sufficient funds have been budgeted and are available, and upon the prior approval of the Board of County Commissioners. No other

expenses are reimbursable except documented long distance telephone calls to County staff to fulfill the responsibilities of membership on the Environmental Ordinance Appeals Board.
[Ord. No. 93-4; February 16, 1993] [Ord. No. 95-8; March 21, 1995]

SEC. 4.12 ENVIRONMENTAL CONTROL HEARING BOARD.

A. **Establishment.** There is hereby established an Environmental Control Hearing Board.

B. **Powers and Duties.** The Environmental Control Hearing Board has the following powers and duties.

1. To hear and conduct hearings into the merits of alleged violations to sections promulgated under Chapter 77-616, Special Act, Laws of Florida, and Palm Beach County Ordinance No. 78-5, as amended, and to issue injunctive and affirmative relief for violations; and

2. After due public hearing upholding a violation, to reach a decision setting forth such findings of fact and conclusions of law as are required in view of the issues presented. The decision shall contain an order which may be framed in the manner of a writ of injunction requiring the violator to conform with either or both of the following requirements:

   a. To refrain from committing, creating, maintaining, or permitting the violations;

   b. To take such affirmative action as the Environmental Control Hearing Board deems necessary and reasonable under the circumstances to correct such violation;

   c. To issue orders imposing civil penalties of up to five hundred (500) dollars for each day of violation.

   d. To issue subpoenas to command the appearance of any person before a hearing at a specified time and place to be examined as a witness. Such subpoenas may require such person to produce all books, papers and documents in that person's possession or under that person's control, material to such hearings; and

   e. To administer oaths to any or all persons who are to testify before the Environmental Control Hearing Board.

C. **Board Membership.**

1. **Qualifications.** Members of the Environmental Control Hearing Board shall be qualified electors of Palm Beach County for two (2) years prior to appointment. No member of the Board of County Commissioners or a County employee including a Board of County Commission aide shall serve on the Environmental Control Hearing Board. The Environmental Control Hearing Board shall be composed of five (5) members. The membership of the Environmental Control Hearing Board shall consist of one (1) lawyer, recommended by the Palm Beach County Bar Association; one (1) medical doctor, recommended by the Palm Beach County Medical Society; one (1) engineer, recommended by the Palm Beach County chapter of the Florida Engineering Society; and two (2) citizens at large.

2. **Appointment**. Members of the Environmental Control Hearing Board shall be appointed by the Board of County Commissioners.

3. **Terms of office.**

   a. All members serving on the Environmental Control Hearing Board on the effective date of this Code shall complete their terms according to their prior appointments.

   b. There shall be no limit on the number of terms a person may serve on the Environmental Control Hearing Board.

   c. The maximum number of boards and commissions that a person appointed by the Board of County Commissioners may serve on at one (1) time shall be three (3). Members affected by this provision shall be governed by Palm Beach County Ordinance No. 91-38, as amended.

   d. An Environmental Control Hearing Board member shall not be prohibited from qualifying as a candidate for elected office.

4. **Removal from office.**

   a. Members of the Environmental Control Hearing Board may be suspended or removed by the Board of County Commissioners, with or without cause.

   b. In the event that any Environmental Control Hearing Board member is convicted of a felony or an offense involving moral turpitude while in office, the Board of County Commissioners shall terminate the appointment of such person as a member of the Environmental Control Hearing Board.

   c. If any member of the Environmental Control Hearing Board fails to attend two (2) of three (3) consecutive meetings without an excused absence, the Board of County Commissioners shall terminate that member. Participation for less than three-fourths (3/4) of a meeting shall constitute lack of attendance.

   d. Excused absence constitutes absence due to illness, absence from Palm Beach County, or personal hardship, if approved by a majority vote of the Environmental Control Hearing Board. Excused absence shall be entered into the minutes at the next regularly scheduled meeting of the Environmental Control Hearing Board.

   e. Members removed from office shall be terminated immediately and not continue to serve until a new appointment is made by the Board of County Commissioners.

5. **Vacancy**. When an Environmental Control Hearing Board member resigns or is removed, the Board of County Commissioners shall accept nominations, if relevant, and shall fill the vacancy within thirty (30) days.

6. Conflict of interest.

a. General. No Environmental Control Hearing Board member shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activities, or incur any obligation of any nature which is in substantial conflict with the proper discharge of duties as a member of the Environmental Control Hearing Board.

b. Implementation. To implement this policy and strengthen the faith and confidence of the citizens of Palm Beach County, members of the Environmental Control Hearing Board are directed:

(1) To be governed by the applicable provisions of the Palm Beach County Ethics Ordinance, upon adoption of such ordinance.
(2) Not to accept any gift, favor or service that might reasonably tend to improperly influence the discharge of official duties.
(3) To make known by written or oral disclosure, on the record at an Environmental Control Hearing Board meeting, any interest which the member has in any pending matter before the Environmental Control Hearing Board, before any deliberation on that matter.
(4) To abstain from using membership on the Environmental Control Hearing Board to secure special privileges or exemptions.
(5) To refrain from engaging in any business or professional activity which might reasonably be expected to require disclosure of confidential information acquired by membership on the Environmental Control Hearing Board not available to members of the general public, and to refrain from using such information for personal gain or benefit.
(6) To refrain from accepting employment which might impair independent judgment in the performance of responsibilities as a member of the Environmental Control Hearing Board.
(7) To refrain from accepting or receiving any additional compensation from any source other than Palm Beach County for duties performed as a member of the Environmental Control Hearing Board.
(8) To refrain from transacting any business in an official capacity as a member of the Environmental Control Hearing Board with any business entity of which the member is an officer, director, agent or member, or in which the member owns a controlling interest.
(9) To refrain from participation in any matter in which the member has a personal investment which will create a substantial conflict between private and public interests.

c. Board action. Willful violation of this subsection which affects a decision of an Environmental Control Hearing Board member shall render that action voidable by the Board of County Commissioners.

D. Officers.

1. **Chairman and vice-chairman.** At an annual organizational meeting, the members of the Environmental Control Hearing Board shall elect one (1) of their members as Chairman and one (1) as Vice-Chairman. In the absence of the Chairman, the Vice-Chairman shall act as Chairman and shall have all powers of the Chairman. The Chairman shall serve a term of one (1) year. Any member shall serve as Chairman for any number of terms at the discretion of the Environmental Control Hearing Board. The Chairman shall administer oaths, shall be in charge of all proceedings before the Environmental Control Hearing Board, and shall take such action as shall be necessary to preserve the order and the integrity of all proceedings before the Environmental Control Hearing Board.

2. **Secretary**. The Environmental Control Officer shall serve as Secretary of the Environmental Control Hearing Board. The Secretary shall keep minutes of all proceedings of the Environmental Control Hearing Board, which minutes shall be a summary of all proceedings before the Environmental Control Hearing Board, attested to by the Secretary, and which shall include the vote of each member upon every question. The minutes shall be approved by a majority of the members of the Environmental Control Hearing Board voting when a quorum is present. In addition, the Secretary shall maintain all records of the Environmental Control Hearing Board, meetings, hearings and proceedings and the correspondence of the Environmental Control Hearing Board. The records of the Environmental Control Hearing Board shall be stored with the Secretary herein, and shall be available for inspection by the public, upon reasonable request, during normal business hours

3. **Staff**. The PBCPHU shall be the professional staff of the Environmental Control Hearing Board.

4. **County attorney.** The County Attorney's Office shall provide counsel and interpretation on legal issues.

5. **Quorum and voting.** No meeting of the Environmental Control Hearing Board shall be called to order, nor may any business be transacted by the Environmental Control Hearing Board, without a quorum consisting of a majority of the members of the Environmental Control Hearing Board being present. A majority of the quorum present shall be necessary for the Environmental Control Hearing Board to take action. In the event of a tie vote, the proposed motion shall be considered to have failed. No member shall abstain from voting unless there is a conflict of interest pursuant to this Article, or Sec. 112.01 et. seq., Fla. Stat.

6. **Rules of procedure.** The Environmental Control Hearing Board may, by a majority vote of the appointed membership, adopt additional rules of procedure for the transaction of business and shall keep a record of meetings, resolutions, findings and determinations. The Environmental Control Hearing Board may provide for transcription of such hearings and proceedings, or portions of hearings and proceedings, as may be deemed necessary.

[Ord. No. 95-8]

E. Meetings.

1. **General or special meetings.** General meetings of the Environmental Control Hearing Board shall be held no less frequently than every forty-five (45) days. The Environmental Control Hearing Board may set the date of a future meetings during any meeting. Special meetings may be called by the Chairman of the Environmental Control Hearing Board, or in writing by a majority of the members of the Board. Twenty four (24) hour written notice shall be given to each Environmental Control Hearing Board member for a special meeting.

2. **Location.** The location of meetings shall be in Palm Beach County, Florida.

3. **Continuance.** If a matter is postponed due to lack of a quorum, the Chairman shall continue the meeting to the next regularly scheduled Environmental Control Hearing Board meeting. The Secretary shall notify all members of the date of the continued meeting and also shall notify all parties.

4. **Meetings open to public.** All meetings and public hearings of the Environmental Control Hearing Board shall be open to the public.

5. **Notice.** Public hearings shall be set for a time certain after due public notice.

6. **Annual Report.** The Environmental Control Hearing Board shall submit an Annual Report to the Board of County Commissioners. The form, substance, and submittal dates for the Annual Report shall be established by a Policy and Procedure Memorandum (PPM).

F. Compensation. The members of the Environmental Control Hearing Board shall receive no compensation for their services. Travel reimbursements are limited to expenses incurred only for travel outside Palm Beach County necessary to fulfill the responsibilities of membership of the Environmental Control Hearing Board. Travel reimbursement shall be made only when sufficient funds have been budgeted and are available, and upon the prior approval of the Board of County Commissioners. No other expenses are reimbursable except documented long distance telephone calls to County staff to fulfill the responsibilities of membership on the Environmental Control Hearing Board.

[Ord. No. 95-8; March 21, 1995]

SEC. 4.13 GROUNDWATER AND NATURAL RESOURCES PROTECTION BOARD.

A. Establishment. There is hereby established a Groundwater and Natural Resource Protection Board.

B. Powers and duties. The Groundwater and Natural Resource Protection Board shall have the following powers and duties:

1. To hold hearings and to make findings of fact and conclusions of law as are necessary to enforce Art. 9., Environmental Standards, (with the exception of Sec. 9.4, Wetlands), if there has been a failure to correct a violation within the time specified by the Code Inspector, if the violation has been repeated, or is of such a nature that it cannot be corrected.

2. To adopt rules of procedure for the conduct of hearings.

3. To issue subpoenas compelling the presence of persons at Board hearings. Subpoenas may be served by the Palm Beach County Sheriff's Department, or other authorized persons consistent with Rule 1.740(1), Fla.R.Civ.Proc.

4. To issue subpoenas compelling the provision of evidence at Groundwater and Natural Resource Protection Board hearings.

5. To take testimony under oath.

6. To issue orders having the force of law commanding whatever steps are necessary to achieve compliance with the violation of Art. 9 of this Code.

7. To levy fines not to exceed two hundred fifty dollars ($250) for a first violation, or five hundred dollars ($500) for a repeat violation, for each day a violation continues past the first day.

8. To lien property.

C. **Board membership.**

1. **Qualifications**. Members of the Groundwater and Natural Resources Protection Board shall be qualified electors of Palm Beach County for two (2) years prior to appointment. No member of the Board of County Commissioners or a County employee including a Board of County Commission aide shall serve on the Groundwater and Natural Resources Protection Board. The Groundwater and Natural Resources Protection Board shall be composed of seven (7) members. The membership of the Board shall consist of a professional engineer registered by the State of Florida, an attorney licensed to practice in Florida, a hydrologist, a citizen possessing expertise and experience in managing a business, a biologist or a chemist, concerned citizen and a member of an environmental organization.

2. **Appointment**. Members of the Groundwater and Natural Resources Protection Board shall be appointed by the Board of County Commissioners.

3. **Terms of office**.

   a. All members shall serve a term of three (3) years. All members serving on the Groundwater and Natural Resources Protection Board on the effective date of this Code shall complete their terms according to their prior appointments.

   b. There shall be no limit on the number of terms a person may serve on the Groundwater and Natural Resources Protection Board.

   c. The maximum number of boards and commissions that a person appointed by the Board of County Commissioners may serve on at one (1) time shall be three (3). Members affected by this provision shall be governed by Palm Beach County Ordinance No. 91-38, as amended.

   d. Members of the Groundwater and Natural Resources Protection Board shall not be prohibited from qualifying as a candidate for elected office.

4. Removal from office

a. In the event that any Groundwater and Natural Resources Protection Board member is convicted of a felony or an offense involving moral turpitude while in office, the Board of County Commissioners shall terminate the appointment of such person as a member of the Groundwater and Natural Resources Protection Board.

b. Any member who fails to attend three (3) consecutive regular meetings without an excused absence and without prior approval of the Chairman, or one-half (½) of the meetings within a calendar year, shall automatically forfeit the appointment. Participation for less than three-fourths (3/4) of a meeting shall constitute lack of attendance.

c. Excused absence constitutes absence due to illness, absence from Palm Beach County, or personal hardship, if approved by a majority vote of the Groundwater and Natural Resources Protection Board. Excused absence shall be entered into the minutes at the next regularly scheduled meeting of the Groundwater and Natural Resources Protection Board.

d. Members removed from office shall be terminated immediately and shall not continue to serve until a new appointment is made by the Board of County Commissioners.

5. Vacancy.

a. When a Groundwater and Natural Resources Protection Board member resigns or is removed, the Board of County Commissioners shall fill the vacancy within thirty (30) days.

b. Any appointment to fill any vacancy shall be for the remainder of the unexpired term of office.

6. Conflict of interest.

a. **General.** No Groundwater and Natural Resources Protection Board member shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activities, or incur any obligation of any nature which is in substantial conflict with the proper discharge of duties as a member of the Groundwater and Natural Resources Protection Board.

b. **Implementation.** To implement this policy and strengthen the faith and confidence of the citizens of Palm Beach County, members of the Groundwater and Natural Resources Protection Board are directed:

(1) To be governed by the applicable provisions of the Palm Beach County Ethics Ordinance, upon adoption of such ordinance.

(2) Not to accept any gift, favor or service that might reasonably tend to improperly influence the discharge of official duties.

(3) To make known by written or oral disclosure, on the record at a Groundwater and Natural Resources Protection Board meeting, any interest which the member has in any pending matter before the Groundwater and Natural Resources Protection Board, before any deliberation on that matter.

(4) To abstain from using membership on the Groundwater and Natural Resources Protection Board to secure special privileges or exemptions.

(5) To refrain from engaging in any business or professional activity which might reasonably be expected to require disclosure of information acquired by membership on the Groundwater and Natural Resources Protection Board not available to members of the general public, and to refrain from using such information for personal gain or benefit.

(6) To refrain from accepting employment which might impair independent judgment in the performance of responsibilities as a member of the Groundwater and Natural Resources Protection Board.

(7) To refrain from accepting or receiving any additional compensation from any source other than Palm Beach County for duties performed as a member of the Groundwater and Natural Resources Protection Board.

(8) To refrain from transacting any business in an official capacity as a member of the Groundwater and Natural Resources Protection Board with any business entity of which the member is an officer, director, agent or member, or in which the member owns a controlling interest.

(9) To refrain from participation in any matter in which the member has a personal investment which will create a substantial conflict between private and public interests.

c. **Board action.** Willful violation of this subsection which affects a vote of a Groundwater and Natural Resources Protection Board member shall render that action voidable by the Board of County Commissioners.

D. Officers; quorum; rules of procedure.

1. **Chairman and vice-chairman.** At an annual organizational meeting, the members of the Groundwater and Natural Resources Protection Board shall elect one (1) of their members as Chairman and one (1) as Vice-Chairman. In the absence of the Chairman, the Vice-Chairman shall act as Chairman and shall have all powers of the Chairman. The Chairman shall serve a term of one (1) year. No member shall serve as Chairman for more than two (2) consecutive terms. The Chairman shall administer oaths, shall be in charge of all proceedings before the Groundwater and Natural Resources Protection Board, and shall take such action as shall be necessary to preserve the order and the integrity of all proceedings before the Groundwater and Natural Resources Protection Board.

2. **Secretary.** The Director of ERM shall serve as Secretary of the Groundwater and Natural Resources Protection Board. The Secretary shall keep minutes of all proceedings of the Groundwater and Natural Resources Protection Board, which minutes shall be a summary of all proceedings before the Groundwater and Natural Resources Protection Board, attested to by the Secretary, and which shall include the vote of each member upon every question. The minutes shall be approved by a majority of the members of the Groundwater and Natural Resources Protection Board voting when a quorum is present. In addition, the Secretary shall maintain all records of the Groundwater and Natural Resources Protection Board, meetings, hearings and proceedings and the correspondence of the Groundwater and Natural Resources Protection Board. The records of the Groundwater and Natural Resources Protection Board shall be stored with the agency serving as Secretary herein, and shall be available for inspection by the public, upon reasonable request, during normal business hours.

3. **Staff.** ERM shall be the professional staff of the Groundwater and Natural Resources Protection Board.

4. **County attorney.** The County Attorney's Office shall provide counsel and interpretation on legal issues.

5. **Quorum and voting.** No meeting of the Groundwater and Natural Resources Protection Board shall be called to order, nor may any business be transacted by the Groundwater and Natural Resources Protection Board, without a quorum consisting of a majority of the members of the Groundwater and Natural Resources Protection Board being present. A majority of the quorum present shall be necessary for the Groundwater and Natural Resources Protection Board to take action. In the event of a tie vote, the proposed motion shall be considered to have failed. No member shall abstain from voting unless there is a conflict of interest pursuant to this Article, or Sec. 112.01 et. seq., Fla. Stat.

6. **Rules of procedure.** The Groundwater and Natural Resources Protection Board may, by a majority vote of the entire membership, adopt additional rules of procedure for the transaction of business and shall keep a record of meetings, resolutions, findings and determinations. The Groundwater and Natural Resources Protection Board may provide for transcription of such hearings and proceedings, or portions of hearings and proceedings, as may be deemed necessary.

[Ord. No. 95-8]

E. Meetings.

1. **General.** General meetings of the Groundwater and Natural Resources Protection Board shall be held no less frequently than once every two (2) months. Special meetings may be called by the Chairman of the Groundwater and Natural Resources Protection Board, or in writing by a majority of the members of the Board. Twenty four (24) hour written notice shall be given to each Board member prior to a special meeting.

2. **Location.** The location of meetings shall be in Palm Beach County, Florida.

F. Operating procedures. All cases brought before the Groundwater and Natural Resources Protection Board shall be presented by ERM. The County Attorney shall serve as legal counsel to the Groundwater and Natural Resources Protection Board.

1. **Continuance.** If a matter is postponed due to lack of a quorum, the Chairman shall continue the meeting to the next regularly scheduled Groundwater and Natural Resources Protection Board meeting. The Secretary shall notify all members of the date of the continued meeting and also shall notify all parties.

2. **Meetings open to public.** All meetings and public hearings of the Groundwater and Natural Resources Protection Board shall be open to the public.

3. **Notice.** Public hearings shall be set for a time certain after due public notice.

4. **Annual Report.** The Groundwater and Natural Resources Protection Board shall submit an Annual Report to the Board of County Commissioners. The form, substance, and submittal dates for the Annual Report shall be established by a Policy and Procedure Memorandum (PPM).

G. Compensation. The members of the Groundwater and Natural Resources Protection Board shall receive no compensation for their services. Travel reimbursement is limited to expenses incurred only for travel outside Palm Beach County necessary to fulfill the responsibilities of membership on the Groundwater and Natural Resources Protection Board. Travel reimbursement shall be made only when sufficient funds have been budgeted and are available, and upon the prior approval of the Board of County Commissioners. No other expenses are reimbursable except documented long distance telephone calls to County staff to fulfill the responsibilities of membership on the Groundwater and Natural Resources Protection Board.

[Ord. No. 95-8; March 21, 1995]

SEC. 4.14 CODE ENFORCEMENT BOARD.

A. Establishment. There is hereby established a Palm Beach County Code Enforcement Board in accordance with the provisions of Sec. 162.01 et. seq., Fla. Stat..

B. Powers and duties. The Code Enforcement Board shall have the following powers and duties:

1. To hold hearings and to make findings of fact and conclusions of law as are necessary to enforce the provisions of this Code and the building, electrical, fire, gas, landscape, plumbing, and other codes of Palm Beach County if there has been a failure to correct a violation within the time specified by the Code Inspector, if the violation has been repeated, or is of such a nature that it cannot be corrected.

2. To adopt rules of procedure for the conduct of hearings.

3. To issue subpoenas compelling the presence of persons at Code Enforcement Board hearings. Subpoenas may be served by the Palm Beach County Sheriff's Department, or other authorized persons consistent with Rule 1.740(1), Fla.R.Civ.Pro..

4. To issue subpoenas compelling the provision of evidence at Code Enforcement Board hearings.

5. To take testimony under oath.

6. To issue orders having the force of law commanding whatever steps are necessary to achieve compliance with the violation of this Code and the County's building, electrical, fire, gas, landscape, plumbing and other codes of Palm Beach County.

7. To levy fines not to exceed two hundred fifty dollars ($250) for a first violation, or five hundred dollars ($500) for a repeat violation, for each day a violation continues past the first day.

8. To lien property.

9. To assess costs pursuant to Sec. 14.2.B. of this Code.

10. To assess costs pursuant to Sec. 14.2.D. of this Code.

11. To serve ex officio as Code Enforcement Special Masters with the power to preside individually over Code Enforcement hearings; to exercise all powers and carry out all duties of the Code Enforcement Board as set forth in this Code.

[Ord. No. 95-24]

C. **Board membership.**

1. **Qualifications.** Members of the Code Enforcement Board shall be qualified electors of Palm Beach County. No member of the Board of County Commissioners, or a County employee including a Board of County Commission aide shall serve on the Code Enforcement Board. The Code Enforcement Board shall be composed of seven (7) members and two (2) alternates. The membership of the Code Enforcement Board shall, whenever possible, include an architect, a business person, an engineer, a general contractor, a landscape architect, a subcontractor, a planner, a realtor, and an attorney.

2. **Appointment.** Members of the Code Enforcement Board shall be appointed on the basis of experience or interest in the subject matter through the sole discretion of the Board of County Commissioners.

3. **Terms of office.**

   a. All Code Enforcement Board members shall serve a term of three (3) years. All members serving on the Code Enforcement Board on the effective date of this Code shall complete their terms according to their prior appointments.

   b. There shall be no limit on the number of terms a person may serve on the Code Enforcement Board.

   c. The maximum number of boards and commissions that a person appointed by the Board of County Commissioners may serve on at one (1) time shall be three (3), unless otherwise limited by the dual office-holding prohibition set forth in Sec. 5(a), Art. II of the Florida Constitution. Members affected by Sec. 4.14.C. of this Code shall be governed by Palm Beach County Ordinance No. 91-38, as amended.

   d. Members of the Code Enforcement Board shall not be prohibited from qualifying as a candidate for elected office.

4. **Removal from office.**

   a. A Code Enforcement Board member shall serve at the pleasure of the Board of County Commissioners, and may be removed by the Board of County Commissioners without cause at any time.

   b. In the event that any Code Enforcement Board member is no longer a qualified elector, or the member is convicted of a felony or an offense involving moral turpitude while in office, the Board of County Commissioners shall terminate the appointment of such person as a member of the Code Enforcement Board.

c. Any member who fails to attend two (2) of three (3) successive meetings without an excused absence and without prior approval of the Chairman shall automatically forfeit the appointment. Participation for less than three-fourths (3/4) of a meeting shall constitute lack of attendance. A member of the Code Enforcement Board who has been automatically removed for lack of attendance may be reappointed by the Board of County Commission member who originally appointed that person.

d. Excused absence constitutes absence due to illness, absence from Palm Beach County, or personal hardship, if approved by a majority vote of the Code Enforcement Board. Excused absence shall be entered into the minutes at the next regularly scheduled meeting of the Code Enforcement Board.

e. Members removed from office shall be terminated immediately and shall not continue to serve until a new appointment is made by the Board of County Commissioners.

5. **Vacancy.**

a. When a member resigns or is removed, the Board of County Commissioners shall fill the vacancy within thirty (30) days.

b. Any appointment to fill any vacancy shall be for the remainder of the unexpired term of office.

6. **Conflict of Interest.**

a. **General.** No Code Enforcement Board member shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activities, or incur any obligation of any nature which is in substantial conflict with the proper discharge of duties as a member of the Code Enforcement Board.

b. **Implementation.** To implement this policy and strengthen the faith and confidence of the citizens of Palm Beach County, members of the Code Enforcement Board are directed:

(1) To be governed by the applicable provisions of the Palm Beach County Code of Ethics and the State of Florida Code of Ethics, chapter 112, Part III, Fla. Stat., as may be amended from time to time.
(2) Not to accept any gift, favor or service that might reasonably tend to improperly influence the discharge of official duties.
(3) To make known by written or oral disclosure, on the record at a Code Enforcement Board meeting, any interest which the member has in any pending matter before the Code Enforcement Board, before any deliberation on that matter.
(4) To abstain from using membership on the Code Enforcement Board to secure special privileges or exemptions.
(5) To refrain from engaging in any business or professional activity which might reasonably be expected to require disclosure of information acquired by membership on the Code Enforcement Board not available to members of the general public, and to refrain from using such information for personal gain or benefit.

(6) To refrain from accepting employment which might impair independent judgment in the performance of responsibilities as a member of the Code Enforcement Board.

(7) To refrain from accepting or receiving any additional compensation from any source other than Palm Beach County for duties performed as a member of the Code Enforcement Board.

(8) To refrain from transacting any business in an official capacity as a member of the Code Enforcement Board with any business entity of which the member is an officer, director, agent or member, or in which the member owns a controlling interest.

(9) To refrain from participation in any matter in which the member has a personal investment which will create a substantial conflict between private and public interests.

c. **Board action.** Willful violation of this subsection which affects a vote of a Code Enforcement Board member shall render that action voidable by the Board of County Commissioners.

[Ord. No. 93-4] [Ord. No. 95-24]

D. Officers; quorum; rules of procedure.

1. **Chairman and vice-chairman.** At an annual organizational meeting, the members of the Code Enforcement Board shall elect one (1) of their members as Chairman and one (1) as Vice-Chairman. In the absence of the Chairman, the Vice-Chairman shall act as Chairman and shall have all powers of the Chairman. The Chairman shall serve a term of one (1) year. No member shall serve as Chairman for more than two (2) consecutive terms. The Chairman shall administer oaths, shall be in charge of all proceedings before the Code Enforcement Board, and shall take such action as shall be necessary to preserve the order and the integrity of all proceedings before the Code Enforcement Board.

2. **Staff.** The Code Enforcement Division shall provide all administrative and clerical staff for all Special Masters and the Code Enforcement Board as may be reasonably required for the property performance of their legal duties. A Secretary provided by the Code Enforcement Division shall keep minutes of all proceedings before each Code Enforcement Special Master and before the Code Enforcement Board. The Secreatry shall maintain all records of these proceedings which shall be stored with the Code Enforcement Division and shall be available for inspection by the public, upon reasonable request, during normal business hours.

3. **County attorney.** The County Attorney's Office shall provide counsel and interpretation on legal issues.

4. **Quorum and voting.** No meeting of the Code Enforcement Board shall be called to order, nor may any business be transacted by the Code Enforcement Board, without a quorum consisting of a majority of the members of the Code Enforcement Board being present. A majority vote of the quorum present shall be necessary for the Code Enforcement Board to take action. In the event of a tie vote, the proposed motion shall be considered to have failed. No member shall abstain from voting unless there is a conflict of interest pursuant to this Article, or Sec. 112.01 et. seq., Fla. Stat.

5. **Rules of procedure.** The Code Enforcement Board may, by a majority vote of the entire membership, adopt additional rules of procedure for the transaction of business an shall keep a record of meeings, resolutions, findings and determinations. The Code Enforcement Board and/or Special Master may provide for transcription of such hearings and proceedings, or portions of hearings and proceedings, as may be deemed necessary.

6. **Rules of procedure.** The Code Enforcement Board may, by a majority vote of the entire membership, adopt additional rules of procedure for the transaction of business and shall keep a record of meetings, resolutions, findings and determinations. The Code Enforcement Board may provide for transcription of such hearings and proceedings, or portions of hearings and proceedings, as may be deemed necessary.
[Ord. No. 95-8][Ord. No. 95-24]

E. Meetings.

1. **General.** General meetings of the Code Enforcement Board shall be held no less frequently than once every two (2) months. Special meetings may be called by the Chairman of the Code Enforcement Board, or in writing by a majority of the members of the Board. Twenty four (24) hour written notice shall be given to each Code Enforcement Board member for a special meeting. Hearings before a Code Enforcement Special Master shall be convened as needed. In the case of an alleged violation as set forth in Sec. 14.2.A.3 of this Code, a hearing may be called as soon as practical.

2. **Location.** The location of meetings shall be in Palm Beach County, Florida.

3. **Operating procedures.** All cases brought before the Code Enforcement Board and Code Enforcement Special Master shall be presented by the Code Enforcement Division of PZB.

4. **Continuance.** If a matter is postponed due to lack of a quorum, the Chairman shall continue the meeting to the next regularly scheduled Code Enforcement Board meeting. The Secretary shall notify all members of the date of the continued meeting and also shall notify all parties.

5. **Meetings open to public.** All meetings and public hearings of the Code Enforcement Board shall be open to the public.

6. **Notice.** Public hearings shall be set for a time certain after due public notice.

7. **Annual Report.** The Code Enforcement Board shall submit an Annual Report to the Board of County Commissioners. The form, substance, and submittal dates for the Annual Report shall be established by a Policy and Procedure Memorandum (PPM).
[Ord. No. 95-24]

F. Compensation. The members of the Code Enforcement Board shall receive no compensation for their services. Travel reimbursement is limited to expenses incurred only for travel outside Palm Beach County necessary to fulfill the responsibilities of membership on the Code Enforcement Board. Travel reimbursement shall be made only when sufficient funds have been budgeted and are available, and upon the prior approval of the Board of County Commissioners. No other expenses are reimbursable except

documented long distance telephone calls to County staff to fulfill the responsibilities of membership on the Code Enforcement Board.
[Ord. No. 93-4; February 16, 1993] [Ord. No. 95-8; March 21, 1995] [Ord. No. 95-24; July 11, 1995]

SEC. 4.15 HEARING OFFICER.

A. **Creation and appointment**. The Board of County Commissioners may appoint one (1) or more hearing officers to hear and consider such matters as may be required under any provision of this Code or as may be determined to be appropriate by the Board of County Commissioners from time to time. Such hearing officers shall serve at the pleasure of the Board of County Commissioners for such period as is determined by the Board. Such hearing officers shall be compensated at a rate to be determined by the Board of County Commissioners. Whoever shall accept an appointment as a hearing officer shall, for a period of one (1) year from the date of termination as holder of such office, not act as agent or attorney in any proceeding, application or other matter before any decision-making body of Palm Beach County in any matter involving land that was the subject of a proceeding which was considered.

B. **Minimum qualifications**. A hearing officer shall have the following minimum qualifications:

1. Be a graduate of a law school accredited by the American Bar Association;

2. Demonstrated knowledge of administrative, environmental and land use planning and law and procedure; and

3. Hold no other appointive or elective public office or position in Palm Beach County during the period of appointment.

C. **Duties**. A hearing officer shall have the following duties:

1. To conduct hearings on such matters as may be requested by the Board of County Commissioners;

2. To render to the Board of County Commissioners a written report containing a summary of the testimony and evidence given and findings and recommendations regarding the specific standards applicable to the particular application for development permit;

3. To issue subpoenas to compel the attendance of witnesses and production of documents, and to administer oaths to witnesses appearing at the hearing; and

4. To perform such other tasks and duties as the Board of County Commissioners may assign.

SEC. 4.16 CITIZENS TASK FORCE.

A. **Establishment**. There is hereby established a Citizens Task Force.

B. Powers and duties. The Citizens Task Force shall have the following powers and duties under the provisions of this Code:

1. To periodically review the provisions to this Code and make recommendations to the Board of County Commissioners for proposed amendments;

2. To make its special knowledge and expertise available upon written request and authorization of the Board of County Commissioners to any official, department, board, commission or agency of the County, State or Federal governments; and

3. To submit an Annual Report to the Board of County Commissioners summarizing its annual activities.

C. Board membership.

1. **Qualifications.** Members of the Citizens Task Force shall be qualified electors of Palm Beach County for two (2) years prior to appointment. No member of the Board of County Commissioners or a County employee including a Board of County Commission aide shall serve on the Citizens Task Force. The Citizens Task Force shall consist of nineteen (19) members, and nineteen (19) alternates. One (1) member shall be appointed by each Board of County Commissioner, and shall serve at the pleasure of that County Commissioner. One (1) member shall be appointed from each of the following groups: the American Institute of Architects, the Associated General Contractors, the Homebuilders and Contractors of America, the Florida Engineering Society, the Florida Society of Professional Land Surveyors, the Palm Beach County Board of Realtors, the Palm Beach County Planning Congress, an environmental organization, the league of municipalities, a condominium association, the AFL-CIO, and a citizen at large.

2. **Appointment.** Each member of the Board of County Commissioners shall appoint one (1) member and one (1) alternate to the Citizens Task Force. That member and alternate appointed by a specific County Commissioner shall serve at the pleasure of that County Commissioner. All of the organizations identified in Sec. 4.16.C.1 shall nominate a member to serve on the Citizens Task Force to the Board of County Commissioners. All of the rest of the Citizens Task Force shall be appointed by a majority vote of the Board of County Commissioners.

3. **Terms of office.**

   a. The term of office of each Citizens Task Force member shall be three (3) years. All members serving on the Citizens Task Force on the effective date of this Code shall complete their terms according to their prior appointments.

   b. When a person is appointed to fill out the term of a departing member, that person's term shall end at the time the departing member's term would have ended.

   c. Members of the Citizens Task Force shall hold office until the first Tuesday after the first Monday in February of the year their term expires.

   d. There shall be no limit on the number of terms a person may serve on the Citizens Task Force.

e. The maximum number of boards and commissions a person appointed by the Board of County Commissioners may serve on at one (1) time shall be three (3). Members affected by this provision shall be governed by Palm Beach County Resolution No. 91-1003, as amended.

f. Citizens' Task Force members shall not be prohibited from qualifying as a candidate for elected office.

4. Removal from office.

a. A Citizens Task Force member shall serve at the pleasure of the member of the Board of County Commissioners who appointed that member, and may be removed by that Board of County Commission member without cause at any time.

b. In the event that any Citizens Task Force member is no longer a qualified elector, or the member is convicted of a felony, or an offense involving moral turpitude while in office, the Board of County Commissioners shall automatically terminate the appointment of such person as a member of the Citizens Task Force.

c. If any member of the Citizens Task Force fails to attend three (3) consecutive regular Citizens Task Force meetings without an excused absence, or one half (½) of the meetings within a calendar year, that member shall be automatically terminated. Participation for less than three-fourths (¾) of a meeting shall constitute lack of attendance. A district appointee who has been automatically removed for lack of attendance may be reappointed by the district Commissioner.

d. Excused absence constitutes absence due to illness, absence from Palm Beach County, or personal hardship, if approved by a majority vote of the Citizens Task Force. Excused absence shall be entered into the minutes at the next regularly scheduled meeting of the Citizens Task Force.

e. Members removed from office shall be terminated immediately and not continue to serve until a new appointment is made by the Board of County Commissioners.

5. Vacancy. The Board of County Commission member who appointed a specific member who vacates or is terminated shall fill a vacancy within thirty (30) days after it occurs. The Board of County Commissioners shall fill any other vacancy consistent with the procedures in Sec. 4.16.C.1 and 4.16.C.2, within thirty (30) days after it occurs.

6. Conflict of Interest.

a. **General.** No Citizens Task Force member shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activities, or incur any obligation of any nature which is in substantial conflict with the proper discharge of duties as a member of the Citizens Task Force.

b. Implementation. To implement this policy and strengthen the faith and confidence of the citizens of Palm Beach County, members of the Citizens Task Force are directed:

(1) To be governed by the applicable provisions of the Palm Beach County Ethics Ordinance, upon adoption of such ordinance.

(2) Not to accept any gift, favor or service that might reasonably tend to improperly influence the discharge of official duties.

(3) To make known by written or oral disclosure, on the record at a Citizens Task Force meeting, any interest which the member has in any pending matter before the Citizens Task Force, before any deliberation on that matter.

(4) To abstain from using membership on the Citizens Task Force to secure special privileges or exemptions.

(5) To refrain from engaging in any business or professional activity which might reasonably be expected to require disclosure of confidential information acquired by membership on the Citizens Task Force not available to members of the general public, and to refrain from using such information for personal gain or benefit.

(6) To refrain from accepting employment which might impair independent judgment in the performance of responsibilities as a member of the Citizens Task Force.

(7) To refrain from accepting or receiving any additional compensation from any source other than Palm Beach County for duties performed as a member of the Citizens Task Force.

(8) To refrain from transacting any business in an official capacity as a member of the Citizens Task Force with any business entity of which the member is an officer, director, agent or member, or in which the member owns a controlling interest.

(9) To refrain from participation in any matter in which the member has a personal investment which will create a substantial conflict between private and public interests.

c. Board action. Willful violation of this subsection which affects a vote of a Citizens Task Force member shall render that action voidable by the Board of County Commissioners.

D. Officers; quorum; rules of procedure.

1. **Chairman and vice-chairman.** At an annual organizational meeting, the members of the Citizens Task Force shall elect a Chairman and Vice-Chairman from among the members. The Chairman and Vice-Chairman's terms shall be for one (1) year. No member shall serve as Chairman for more than two (2) consecutive terms. The Chairman shall administer oaths, shall be in charge of all procedures before the Citizens Task Force, and shall take such action as shall be necessary to preserve the order and the integrity of all proceedings before the Citizens Task Force. In the absence of the Chairman, the Vice-Chairman shall act as Chairman and shall have all the powers of the Chairman.

2. **Secretary.** The Zoning Director of PZB shall serve as Secretary of the Citizens Task Force. The Secretary shall keep minutes of all proceedings, which minutes shall be a summary of all proceedings before the Citizens Task Force, which shall include the vote of all members upon every question, and be attested to by the Secretary. The minutes shall be approved by a majority of the Citizens Task Force members voting. In addition, the Secretary shall maintain all records of Citizens Task Force meetings, hearings, proceedings, and the correspondence of the Citizens Task Force. The records of the Citizens Task Force shall be stored with the agency serving as Secretary herein, and shall be available for inspection by the public, upon reasonable request, during normal business hours.

3. **Staff.** The Zoning Division of PZB shall be the professional staff of the Citizens Task Force.

4. **County attorney.** The County Attorney's Office shall provide counsel and interpretation on legal issues.

5. **Quorum and voting.** The presence of a majority of appointed members of the Citizens Task Force shall constitute a quorum of the Citizens Task Force necessary to take action and transact business. In addition, a simple majority vote shall be necessary in order to forward a formal recommendation to the Board of County Commissioners. In the event of a tie vote, the proposed motion shall be considered to have failed.

6. **Rules of procedure.** All meetings shall be governed by Robert's Rules of Order. The Citizens Task Force may, by a majority vote of the membership, adopt additional rules of procedure for the transaction of business, and shall keep a record of meetings, resolutions, findings and determinations.

E. **Meetings.**

1. **General.** General meetings of the Citizens Task Force shall be held as needed to dispense of matters properly before the Citizens Task Force. Special meetings may be called by the Chairman or in writing by a majority of the members of the Citizens Task Force. Twenty four (24) hour written notice shall be given to each Citizens Task Force member before a special meeting.

2. **Location.** The location of all Citizens Task Force meetings shall be in Palm Beach County, Florida.

3. **Continuance.** If a matter is postponed due to lack of a quorum, the meeting shall be rescheduled to the next Citizens Task Force meeting.

4. **Meetings open to public.** All meetings and public hearings of the Citizens Task Force shall be open to the public.

5. **Notice.** Public hearings shall be set for a time certain after due public notice.

6. **Annual Report.** The Citizens' Task Force shall submit an Annual Report to the Board of County Commissioners. The form, substance, and submittal dates for the Annual Report shall be established by a Policy and Procedure Memorandum (PPM).

F. **Compensation**. The members of the Citizens Task Force shall receive no compensation for their services. Travel reimbursement for members of the Citizens Task Force is limited to expenses incurred only for travel outside Palm Beach County necessary to fulfill the responsibilities of membership on the Citizens Task Force. Travel reimbursement shall be made only when sufficient funds have been budgeted and are available, and upon the prior approval of the Board of County Commissioners. No other expenses are reimbursable except documented long distance telephone calls to County staff to fulfill the responsibilities of membership on the Citizens Task Force.

SEC. 4.17 COUNTY ADMINISTRATOR.

A. **Creation and appointment**. The County Administrator shall be the head of the Palm Beach County staff, and shall be appointed and serve at the pleasure of the County Commissioners.

B. **Jurisdiction, authority and duties**. In addition to the jurisdiction, authority, and duties which may be confirmed upon the County Administrator by other provisions of the County Code and County Charter, the County Administrator shall have the following jurisdiction and authority under this Code:

1. To review and render decisions on appeals of decisions of County administrative officials, except for appeals that have a venue of appeal to a specific board of commission; and,

2. To administer the County administrative officials charged with regulatory authority under this Code.

3. To accept maintenance responsibility on behalf of the County for those streets dedicated to the Board of County Commissioners on a duly approved plat of record and constructed pursuant to a Land Development Permit for subdivision required improvements.

[Ord. No. 94-9]
[Ord. No. 94-9; May 3, 1994]

SEC. 4.18 EXECUTIVE DIRECTOR OF PLANNING, ZONING AND BUILDING DEPARTMENT.

A. **Creation and appointment**. The Executive Director of the Planning, Zoning, and Building (PZB) Department shall be the agency head of the Palm Beach County Planning, Zoning and Building Department, and shall be appointed and serve at the pleasure of the County Administrator.

B. **Jurisdiction, authority and duties**. In addition to the jurisdiction, authority, and duties which may be conferred upon the Executive Director of PZB by other provisions of the County Code and the County Charter, the Executive Director of PZB shall have the following jurisdiction, authorities, and duties under this Code:

1. To review and render interpretations to all provisions of this Code and the Official Zoning Map, except for Sec. 7.5, Vegetation Preservation and Protection; Sec. 7.6. Excavation; Sec. 7.7, Driveways and Access; Sec. 15.1, Traffic Performance Standards; Sec. 16.1 and Sec. 16.2, the Environmental Control Rules I & II; Sec. 17.1, Park and Recreation Standards; Art. 8, Subdivision; Art. 9, Environmental Standards; and Art. 10, Impact Fees;

2. To administer the PZB Department, including the Planning Division, the Zoning Division, the Building Division, and the Code Enforcement Division; and

3. Waive or modify development review fees upon demonstration that the applicant is indigent pursuant to PBCPHU standards, or the applicant can demonstrate review fees are in excess of actual staff costs.

[Ord. No. 94-23] [Ord. No. 95-24]
[Ord. No. 93-4; February 16, 1993] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-24; July 11, 1995]

SEC. 4.19 PLANNING DIRECTOR OF PZB.

A. **Creation and appointment**. The Planning Director of PZB shall be the division head of the Planning Division of PZB, and shall be appointed and serve at the pleasure of the Executive Director of PZB.

B. **Jurisdiction, authority and duties**. In addition to the jurisdiction, authority and duties which may be conferred upon the Planning Director of PZB by other provisions of the County Code, the Planning Director of PZB shall have the following jurisdictions, authority and duties under this Code:

1. To undertake the current and long range comprehensive planning responsibilities of the County under Sec. 163.3161 et. seq. Fla. Stat., as amended;

2. To review the Comprehensive Plan every five (5) years ;

3. To recommend annually, any necessary amendments to the Comprehensive Plan;

4. To accept, review and prepare staff reports recommending approval, approval with conditions, or denial of applications for Site Specific (Future Land Use Map) amendments to the Comprehensive Plan;

5. To administer the process of Development of Regional Impact (DRI) review for projects within municipalities in Palm Beach County.

[Ord. No. 94-23]
[Ord. No. 94-23; October 4, 1994]

SEC. 4.20 ZONING DIRECTOR OF PZB.

A. **Creation and appointment**. The Zoning Director of PZB shall be the division head of the Zoning Division of PZB, and shall be appointed and serve at the pleasure of the Executive Director of PZB.

B. **Jurisdiction, authority and duties**. In addition to the jurisdiction, authority and duties which may be conferred upon the Zoning Director of PZB by other provisions of the County Code, the Zoning Director of PZB shall have the following jurisdictions, authority and duties under this Code:

1. To coordinate all preapplication conferences;

2. To accept, review, approve, and update General Application submissions;

3. To accept applications for, review and prepare staff reports recommending approval, approval with conditions, or denial of applications for the following development permits: amendments to the Official Zoning Map; Preliminary Development Plans for a Residential Planned Unit Development (RPUD), Traditional Neighborhood Development District (TND), Neighborhood Center Planned Development District (NCPD), Mixed Use Planned Development District (MXDD), Multiple Use Planned Development District (MUDD), Planned Industrial Park Development District (PIPD), Mobile Home Park Planned Development District (MHPD), Recreational Vehicle Park Planned Development District (RVPD), Solid Waste Disposal Planned Development District (SWPD), Class "A" Conditional uses, Class "B" Conditional uses, Site Plan/Plats, and Variances;

4. To review and approve, approve with conditions, or deny applications for development permits for special use permits;

5. To review and approve, approve with conditions or deny applications for development permits for administrative variances;

6. To recommend annually, any necessary amendments to this Code; and

7. To administer the process of Development of Regional Impact (DRI) review in unincorporated Palm Beach County.

8. Submit administrative inquiries to the Board of County Commissioners. These inquiries are not public hearings and are not subject to the advertising and notice requirements of Article 5. An administrative inquiry may be made by a public agency through the Zoning Director. The purpose of the inquiry shall be to ask for procedural direction from the board, or resolve an inconsistency in the Code or in a development approval, or provide an interpretation where it is clear there is a question of meaning in a Code provision or a condition of development approval. The decision of the Board shall be binding. Appeals of administrative decisions and Code interpretations filed by an applicant or citizen shall be heard by the Board of Adjustment, pursuant to Article 4.

9. To review and approve or deny applications for Adequate Public Facility Determinations;

10. To review and approve, approve with conditions, or deny applications of Conditional Certificates of Concurrency Reservation and Certificates of Concurrency Reservation.

[Ord. No. 93-4] [Ord. No. 94-23]
[Ord. No. 93-4; February 16, 1993] [Ord. No. 94-23; October 4, 1994]

SEC. 4.21 BUILDING DIRECTOR OF PZB.

A. Creation and appointment. The Building Director of PZB shall be the division head of the Building Division of PZB, and shall be appointed and serve at the pleasure of the Executive Director of PZB, subject to the provisions of the Building Code Enforcement Administrative Code.

B. Jurisdiction, authority and duties. In addition to the jurisdiction, authority and duties which may be conferred upon the Building Director of PZB by other provisions of the County Code, the Building Director of PZB shall have the following jurisdictions, authority and duties under this Code:

1. To review and approve, approve with conditions, or deny applications for development permits for building permits.

2. To review and approve, approve with conditions, or deny applications for development permits for certificates of occupancy or completion.

SEC. 4.22 CODE ENFORCEMENT DIRECTOR OF PZB.

A. **Creation and appointment**. The Code Enforcement Director shall be the head of enforcement of this Code, and shall be appointed and serve at the pleasure of the Executive Director of PZB.

B. **Jurisdiction, authority and duties**. In addition to the jurisdiction, authority and duties which may be conferred upon the Code Enforcement Director of PZB by other provisions of the County Code, the Code Enforcement Director of PZB shall have the following jurisdictions, authority and duties under this Code:

1. To monitor and assist in the enforcement of this Code.

2. To ensure compliance with conditions of a development order.

SEC. 4.23 IMPACT FEE COORDINATOR.

A. **Creation and appointment**. The Impact Fee Coordinator shall be responsible for the administration of the County's impact fee program, and shall be appointed and serve at the pleasure of the Director of the Office of Financial Management and Budget.

B. **Jurisdiction, authority and duties**. In addition to the jurisdiction, authority and duties which may be conferred upon the Impact Fee Coordinator by other provisions of the County Code, the Impact Fee Coordinator shall have the following jurisdictions, authority and duties under this Code:

1. To review and render interpretations to Art. 10, Impact Fees.

2. To administrate Art. 10, Impact Fees.

3. To review and approve or deny applications for independent calculation studies pursuant to Art. 10, Impact Fees.

4. To review and approve or deny applications for credit pursuant to Art. 10, Impact Fees, with the input, assistance, and approval of the County department or agency receiving the impact fees for which the credit is sought.

5. To provide assistance to the Impact Fee Committee.

6. To present appeals to the Impact Fee Appeals Board.

7. To coordinate the County, municipalities, and agencies receiving impact fee funds.

8. To provide technical assistance and advice to the municipalities in their administration of Art. 10, Impact Fees.

SEC. 4.24 COUNTY ENGINEER.

A. **Creation and appointment.** The County Engineer shall be the agency head of the Department of Engineering and Public Works (DEPW), and shall be appointed and serve at the pleasure of the County Administrator.

B. **Jurisdiction, authority and duties**. In addition to the jurisdiction, authority and duties which may be conferred upon the County Engineer by other provisions of the County Code and County Charter, the County Engineer shall have the following jurisdictions, authority and duties under this Code:

1. To review and render interpretations to Sec. 7.7, Driveways and Access; Sec. 15.1, Traffic Performance Standards; and Art. 8, Subdivision;

2. To review and approve or deny applications for Technical Compliance for Subdivision;

3. To review applications and approve development orders for Land Development Permits;

4. To review and acknowledge the completion of Required Improvements for Subdivision;

5. To review and approve or deny applications for development permits for Final Plats of subdivisions, including replats of lands within record plats previously approved for recording by Resolution of the Board of County Commissioners, and approve such plats on behalf of the County for recordation in the public records. Said approval authority may be delegated only as follows:
   a. To either the Deputy County Engineer or the Assistant County Engineer during a prearranged absence of the County Engineer, such as for vacation or seminar attendance, for a period of five (5) or more consecutive days, provided that said delegation shall be in writing and signed by the County Engineer; or
   b. To the Deputy County Engineer in the event that the County Engineer is absent or otherwise incapacitated for a period of five (5) or more days due to an emergency or other unforeseen circumstances, provided that said delegation shall be in writing and signed by the County Administrator.

   The Clerk of the Circuit Court shall be notified of each incident of delegation made pursuant to the above, and said delegation shall terminate upon the County Engineer's return to normal duty; and

6. To accept maintenance responsibility on behalf of the County for those streets dedicated to the Board of County Commissioners on a duly approved plat of record and constructed pursuant to a Land Development Permit for subdivision required improvements.

[Ord. No.94-9] [Ord. No. 95-33]
[Ord. No. 94-9; October 4, 1994] [Ord. No. 95-33; September 5, 1995]

SEC. 4.25 DIRECTOR OF LAND DEVELOPMENT DIVISION OF DEPW.

A. **Creation and appointment**. The Director of the Land Development Division of the DEPW shall be the division head of the Land Development Division of DEPW, and shall be appointed and serve at the pleasure of the County Engineer.

B. **Jurisdiction, authority and duties**. In addition to the jurisdiction, authority and duties which may be conferred upon the Director of the Land Development Division by other provisions of the County Code, the Director of the Land Development Division shall have the jurisdiction, authority and duty under this Code to administer County staff review of Art. 8, Subdivision.

SEC. 4.26 DIRECTOR OF ERM.

A. **Creation and appointment**. The Director of the Department of Environmental Resources Management (ERM) shall be the agency head of the ERM, and shall be appointed and serve at the pleasure of the County Administrator.

B. **Jurisdiction, authority and duties**. In addition to the jurisdiction, authority and duties which may be conferred upon the Director of ERM by other provisions of the County Code and the County Charter, the Director of ERM shall have the following jurisdictions, authority and duties under this Code:

1. To review, consider and render interpretations to Art. 9, Environmental Standards and Secs. 7.5 and 7.6;

2. To review and approve, approve with conditions or deny applications for development or permits for coastal protection, sea turtle protection, environmentally sensitive lands, wetlands protection, wellfield protection, vegetation removal, excavation, and other ordinances as may be assigned by the Board of County Commissioners;

3. To initiate enforcement action pursuant to Article 9, Secs. 7.5 and 7.6 whenever evidence has been obtained or received establishing that a violation has been committed. The Director of ERM shall issue a notice to correct the violation, a citation to cease the violation, or a notice of violation and cause same to be served upon the violator;

4. To terminate an investigation or an enforcement action commenced under the provisions of Article 9, Secs. 7.5 and 7.6 and to resolve the alleged violations by execution of a written consent (settlement) agreement between the County and the person(s) who is(are) the subject of the investigation or action. The consent agreement shall provide written assurance of voluntary compliance with all the applicable provisions of the Code by said person(s). The consent agreement may, at the discretion of the Director of ERM, provide the following: remedial or corrective action; environmental mitigation; compensatory damages; punitive damages; civil penalties; costs and expenses of the County in tracing the source of any discharge, in controlling and abating the source of the pollutants and the pollutants themselves, and in restoring the waters and property, including animal, plant and aquatic life, of the County to their former conditions; and costs of the County for investigation, enforcement, testing, monitoring, and litigation Executed written consent agreements are hereby deemed to be lawful orders or contracts of the County; and

5. To refer unresolved violations to the appropriate enforcement board or to make recommendations to the Board of County Commissioners for initiation of suits in the appropriate courts of competent jurisdiction.

SEC. 4.27 COUNTY HEALTH DIRECTOR.

A. **Creation and appointment**. The County Health Director shall be the agency head of the Palm Beach County Public Health Unit (PBCPHU) and shall be appointed by the Secretary of the Department of Health and Rehabilitative Services after consultation with the State Health Officer and the District Administrator, and concurrence by the Board of County Commissioners.

B. **Jurisdiction, authority and duties**. In addition to the jurisdiction, authority and duties which may be conferred upon the County Health Director by other provisions of the County Code, the County Health Director shall have the following jurisdictions, authority and duties under this Code:

1. To review, consider, enforce and render interpretations to Secs. 7.8.A.10 and Article 16 of this Code; and

2. To review and approve, approve with conditions, or deny all applications for development permits pursuant to Secs. 16.1 and 16.2 the Environmental Control Rules I and II.

[Ord. No. 95-24; July 11, 1995]

SEC. 4.28 COUNTY ATTORNEY. In addition to the jurisdiction, authority and duties which may be conferred upon the County Attorney by other provisions of the County Code and County Charter, the County Attorney and his/her designated staff shall have the following jurisdictions, authority and duties under this Code:

A. To review and approve as to form all written findings of fact and resolutions drafted by the County Departments, Board of County Commissioners, Zoning Commission, Board of Adjustment, Land Use Advisory Board, Traffic Performance Standards Appeals Board, Concurrency Review Board, Environmental Appeals Board, Environmental Ordinance Appeals Board, Impact Fee Review Committee, Impact Fee Appeals Board, Code Enforcement Board, Groundwater and Natural Resources Protection Board, Environmental Control Board, Code Enforcement Board, and Development Review Committee, in connection with any requirement of this Code and other codes of Palm Beach County.

B. To review and approve as to form all Development Agreements, PUD Agreements, easements, declarations of covenants, letters of credit, performance bonds or other such documentation in connection with any requirement of this Code; and

C. To advise the Board of County Commissioners, the County Departments, and the review Boards and Commissions in regard to the legal issues which may arise in the implementation of this Code and the Comprehensive Plan.

SEC. 4.29 DIRECTOR OF PARKS AND RECREATION.

A. **Creation and appointment.** The Director of the Parks and Recreation Department shall be the agency head of the Palm Beach County Parks and Recreation Department and shall be appointed and serve at the pleasure of the County Administrator.

B. **Jurisdiction, authority and duties.** In addition to the jurisdiction, authority, and duties which may be confirmed upon the Director of Parks and Recreation by other provisions of the County Code and the County Charter, the Director of Parks and Recreation shall have the following jurisdiction, authorities, and duties under this Code:

1. To review and render interpretations on park related land development regulations and to assure park related land development regulations are met.

2. To administer the Parks and Recreation Department, including the Parks Division and the Recreation Division.

SEC. 4.30 HISTORIC RESOURCES REVIEW BOARD.

A. **Establishment.** There is hereby established a Historic Resources Review Board (HRRB).

B. **Powers and Duties.** The HRRB shall have the following powers and duties under the provisions of this code:

1. Develop, administer and update an accurate inventory of historic resources in unincorporated Palm Beach County and on County owned property in municipalities. The inventory shall be used to formulate a map of historic district boundaries and historically significant properties meriting protection to be incorporated into the land use element of the 1989 Palm Beach County Comprehensive Plan. Historic properties and districts located in unincorporated Palm Beach County shall be identified by means of an overlay district on the Palm Beach County Zoning Map.

2. Pursuant to Section 7.17 of the ULDC, nominate and accept nominations for public and private properties for designation and regulate and administer such properties, structures, buildings, sites, districts, etc. so designated as historic sites and/or districts. The Department, in conjunction with the HRRB, shall establish a schedule for nominations for public and private properties for designation.

3. Participate in the National Register program in Florida to the greatest possible extent,as defined by the 1981 and subsequent amendments to the Historic Preservation Act of 1966 and regulations and rules drafted pursuant to those amendments by the National Park Service and the Florida State Bureau of Historic Preservation.

4. Act as a regulatory body to approve, deny or modify Certificates of Appropriateness as specified by Section VII of this ordinance.

5. Make recommendations concerning amendments to comprehensive plan, zoning, building and other development related codes as they relate to the preservation of Historic Resources.

6. To make recommendations regarding historic and archeological resources on property owned by Palm Beach County.

7. Pursuant to Section 7.17(g) of the ULDC, review and comment to the Board of County Commissioners concerning waiver of Code provisions of the Land Development Code for properties within historic districts and for properties designated as historic or archaeological sites or listed on the Palm Beach County Register of Historic Places.

8. Develop, establish, and administer guidelines concerning contemporaneous architectural styles, colors, building materials and so forth for historic sites and historic districts. Such guidelines will be subject to approval by the Board of County Commissioners.

9. Coordinate with other entities to support increased public awareness of the value of historic preservation.

10. After Palm Beach County qualifies as a Certified Local Government, make recommendations to the County Commission concerning the use of grants from Federal and State agencies, to augment County funding in order to promote the preservation and conservation of archaeological sites of historic significance, historic sites and historic districts.

11. Cooperate and coordinate with property owners, public and private organizations, businesses and other individuals to help insure the conservation and preservation of archaeological sites, contents within said sites, buildings, structures and districts of historic significance, especially those for which demolition or destruction is proposed.

12. Create and approve the design of standardized historic markers and plaques and issue recognition to designated historic sites and historic districts within the County.

13. Execute any other needed and appropriate historic resource preservation functions which may be approved by the County Commission.

14. Develop and administer a Historic Preservation Manual for Palm Beach County to help property owners to fulfill the regulations and requirements of this ordinance.

15. To hear, consider and approve, approve with conditions or deny applications for Certificate to Dig.

16. To make recommendations to the Board of County Commissioners regarding proposed amendments to the map of known archeological sites.

17. Initial resources shall be dedicated to those functions which shall qualify Palm Beach County as a Certified Local Government.

18. Make every effort to be represented at meetings, conferences and workshops pertaining to the functions of the HRRB scheduled by the State Historic Preservation offices or the Florida Conference of Preservation Boards and Commissions.

19. To seek expertise or proposals of matters requiring evaluation by a professional of a discipline not represented on the HRRB.

20. The HRRB's responsibilities shall be complementary to the powers of the State Historic Preservation Office.

[Ord. No. 93-4][Ord. No. 95-8]

C. **Board Membership.**

1. **Qualifications.** There shall be nine (9) members of the HRRB. Members of the HRRB shall be residents of Palm Beach County, Florida and demonstrate an interest in local history. One member with professional experience shall be appointed from each of the following five (5) professional disciplines: history, architecture, archeology, architectural history and historic architecture. Other historic preservation related disciplines, such as Urban Planning, American Studies, American Civilization, Cultural Geography or Cultural Anthropology shall be considered when choosing appointments for these five (5) of the (9) members of the HRRB. Each of these five positions shall meet the requirements outlined in the Professional Qualifications Standards of the Florida Certified Local Government Guidelines. In addition to the above five (5) positions, there shall be a sixth person with a demonstrated interest, degree or experience in one of the above professional disciplines who is also a resident of the area of the County west of Twenty (20) Mile Bend, including any of the incorporate or unincorporated communities in proximity to Lake Okeechobee. There are no specific requirements for the other three positions as a prerequisite to appointment but consideration shall be given to the following with a demonstrated interest in history, architecture or related disciplines: business person, engineer, contractor in a construction trade, landscape architect, urban planner, attorney, and resident of areas identified by 1990 Palm Beach County Historic Sites Survey as containing twenty five (25) or more structures with potential for historic preservation. Persons seeking appointment to the HRRB shall be willing to invest time to assist staff in site evaluations, establishing priorities, public education efforts, survey and planning activities of the Certified Local Government Program and the other responsibilities of the HRRB. Board members shall attend pertinent educational conferences and seminars.

2. **Appointment.** The members of the HRRB shall be appointed at large by the Board of County Commissioners.

3. **Terms of Office.** The initial appointments to the Board shall be as follows:

   a. Three (3) members appointed for a term of one (1) year each.

   b. Three (3) members appointed for a term of two (2) years each.

   c. Three (3) members appointed for a term of three (3) years each.

   d. Thereafter, any appointment shall be made for a term of three (3) years. Any member may be reappointed for one (1) successive term upon approval of the County Commission as provided for herein.

4. **Removal from Office.**

   a. In the event that any HRRB member is convicted of a felony or an offense involving moral turpitude while in office, the Board of County Commissioners shall terminate the appointment of such person as a member of the Historic Resources Review Board.

b. Any member who fails to attend three (3) consecutive regular meetings without an excused absence and without prior approval of the Chairman, or one-half (½ of the meetings within a calendar year, shall automatically forfeit the appointment. Participation for less than three-fourths (3/4) of a meeting shall constitute lack of attendance.

c. Excused absence constitutes absence due to illness, absence from Palm Beach County, or personal hardship, if approved by a majority vote of the Historic Resources Review Board. Excused absence shall be entered into the minutes at the next regularly scheduled meeting of the Historic Resources Review Board.

d. Members removed from office shall be terminated immediately and shall not continue to serve until a new appointment is made by the Board of County Commissioners.

5. **Vacancy.**

a. When a HRRB member resigns or is removed, the Board of County Commissioners shall fill the vacancy within thirty (30) days.
b. Any appointment to fill any vacancy shall be for the remainder of the unexpired term of office.

6. **Conflict of Interest.**

a. **General.** No HRRB member shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activities, or incur any obligation of any nature which is in substantial conflict with the proper discharge of duties as a member of the Historic Resources Review Board.

b. **Implementation.** To implement this policy and strengthen the faith and confidence of the citizens of Palm Beach County, members of the Historic Resources Review Board are directed:

(1) To be governed by the applicable provisions of the Palm Beach Ethics Ordinance, upon adoption of such ordinance.
(2) Not to accept any gift, favor or service that might reasonable tend to improperly influence the discharge of official duties.
(3) To make known by written or oral disclosure, on the record at a Historic Resources Review Board meeting, any interest which the member has in any pending matter before the Historic Structure and Archeological Review Board, before any deliberation on that matter.
(4) To abstain from using membership on the Historic Resources Review Board to secure special privileges or exemptions.
(5) To refrain from engaging in any business or professional activity which might reasonably be expected to require disclosure of information acquired by membership on the Historic Resources Review Board not available to members of the general public, and to refrain from using such information for personal gain or benefit.
(6) To refrain from accepting employment which might impair independent judgment in the performance of responsibilities as a member of the Historic Resources Review Board.

(7) To refrain from accepting or receiving any additional compensation from any source other than Palm Beach County for duties performed as a member of the Historic Resources Review Board.

(8) To refrain from transacting any business in an official capacity as a member of the Historic Resources Review Board with any business entity of which the member is an officer, director, agent or member, or in which the member owns a controlling interest.

(9) To refrain from participation in any matter in which the member has a personal investment which will create a substantial conflict between private and public interests.

c. **Board Action.** Willful violation of this subsection which affects a vote of a Historic Resources Review Board member shall render that action voidable by the Board of County Commissioners.

D. **Officers; Quorum; Rules of Procedure.**

1. **Chairman and Vice-Chairman.** At an annual organizational meeting, the members of the HRRB shall elect one (1) of their members as Chairman and one (1) as Vice-Chairman. In the absence of the Chairman, the Vice-Chairman shall act as Chairman and shall have all powers of the Chairman. The Chairman shall serve a term of one (1) year. No member shall serve as Chairman for more than two (2) consecutive terms. The Chairman shall administer oaths, shall be in charge of all proceedings before the Historic Resources Review Board, and shall take such action as shall be necessary to preserve the order and the integrity of all proceedings before the Historic Resources Review Board.

2. **Secretary.** The Executive Director of the Planning, Zoning and Building Department shall serve as Secretary to the HRRB. The Secretary shall keep minutes of all proceedings of the Historic Resources Review Board, which minutes shall be a summary of all proceedings before the Historic Resources Review Board, attested to by the Secretary, and which shall include the vote of each member upon every question. The minutes shall be approved by a majority of the members of the Historic Resources Review Board voting when a quorum is present. In addition, the Secretary shall maintain all records of the Historic Resources Review Board, meetings, hearings and proceedings and the correspondence of the Historic Resources Review Board. The records of the Historic Resources Review Board shall be stored with the agency serving as Secretary herein, and shall be available for inspection by the public, upon reasonable request, during normal business hours.

3. **Staff.** The Planning, Zoning and Building Department shall be the professional staff of the HRRB. The Board shall make every effort to minimize demands on staffing in consideration of budgetary constraints.

4. **County Attorney.** The County Attorney's Office shall provide counsel and interpretation on legal issues.

5. **Quorum and Voting.** No meeting of the HRRB shall be called to order, nor may any business be transacted by the HRRB, without a quorum consisting of a majority of the members currently appointed to the HRRB. A majority of the quorum present shall be necessary for the HRRB to take action. In the event of a tie vote, the proposed motion shall be considered to have failed.

6. **Rules of Procedure.** All meetings shall be governed by Robert's Rules of Order. The HRRB may, by a majority vote of the entire membership, adopt additional rules of procedure for the transaction of business and shall keep a record of meetings, resolutions, findings and determinations.

E. Meetings.

1. **General.** General meetings of the HRRB shall be held at least quarterly. Special meetings may be called by the Chairman of the Historic Resources Review Board, or in writing by a majority of the members of the Board. Twenty four (24) hours written notice shall be given to each Board member prior to a special meeting.

2. **Location.** The location of meetings shall be in Palm Beach County, Florida.

3. **Agenda.** All meetings of the HRBB shall have a previously advertised agenda meeting the requirements of section 286.0105, Fla. Stat.

4. **Decisions.** All decisions of the HRRB shall be made at a meeting of the HRRB.

F. Compensation. The members of the HRRB shall receive no compensation for their services. Travel reimbursement is limited to expenses incurred only for travel outside Palm Beach County necessary to fulfill the responsibilities of membership on the Historic Resources Review Board. Travel reimbursement shall be made only when sufficient funds have been budgeted and are available, and upon the prior approval of the Board of County Commissioners. No other expenses are reimbursable except documented long distance telephone calls to County staff to fulfill the responsibilities of membership on the Historic Resources Review Board.
[Ord. No. 93-4]
[Ord. No. 93-4; February 2, 1993] [Ord. No. 94-9; May 3, 1994] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-8; March 21, 1995] [Ord. No. 95-24; July 11, 1995]

ARTICLE 5.

DEVELOPMENT REVIEW PROCEDURES

TABLE OF CONTENTS

ARTICLE 5.
DEVELOPMENT REVIEW PROCEDURES

		Page
SEC.5.1	GENERAL APPLICABILITY.	1
A.	Applicability.	1
B.	Applications, fees and deadlines.	1
C.	Preapplication conference and General Application submission.	1
1.	General Overview	1
2.	Initiation of request and submission of General Application submission	1
3.	Contents of General Application submission	2
4.	Scheduling of preapplication conference	3
5.	Preapplication conference issues	3
6.	Written Summary	4
D.	Threshold Review.	4
1.	General	4
2.	Development on property or uses requiring Threshold Review:	4
3.	Contents of application.	5
E.	Applications for Development Permits.	5
F.	Public Hearing procedures for application for development permit	5
1.	General.	5
2.	Setting the hearing	5
3.	Examination and copying of application and other documents	6
4.	Conduct of hearing	6
G.	Actions by decision-making persons and bodies	8
1.	General	8
2.	Findings	8
3.	Notification	8
H.	Development Order Amendments.	8
1.	General.	8
2.	Expedited Application Consideration.	8
I.	Consolidated applications	9
J.	Successive applications	10
1.	Application for development permit.	10
2.	Site Specific (Future Land Use Atlas) amendment to comprehensive plan.	10
K.	Suspension of development review proceedings	10
L.	Violation of condition of development order.	10
M.	Misrepresentation.	10
N.	Development Order Abandonment	11
1.	General	11
2.	Development Orders Not Implemented	11
3.	Implemented Development Orders	11
4.	Additional Guidelines.	11

SEC.5.2 SITE SPECIFIC (FUTURE LAND USE ATLAS) COMPREHENSIVE PLAN AMENDMENTS 12
A. Purpose 12
B. Authority 12
C. Initiation 12
D. Procedure 12
1. Preapplication conference 12
2. Timing 12
3. Submission of application 12
4. Contents of application 13
5. Determination of sufficiency 13
6. Review, report and recommendation by Planning Director 13
7. Notice. 13
8. Action by the Land Use Advisory Board sitting as the Local Planning Agency 14
9. Action by Board of County Commissioners 15
10. Standards 15

SEC. 5.3 OFFICIAL ZONING MAP AMENDMENTS. 16
A. Purpose 16
B. Authority 16
C. Initiation 16
D. Procedure 16
1. Submission of application 16
2. Contents of application 17
3. Determination of sufficiency 17
4. Review, report and recommendation 17
5. Public hearings 17
6. Notice 18
7. Action by Zoning Commission 20
8. Action by Board of County Commissioners 20
9. Standards 21
E. Effect of approval of a map amendment. 22
1. General. 22
2. Time Limitations. 22
F. Appeal 22

SEC.5.4 CONDITIONAL USES 22
A. Purpose 22
B. Authority 22
1. Class "A" conditional uses 22
2. Class "B" conditional uses 22
C. Initiation 23
D. Preapplication conference 23

E. Class "A" conditional use 23
1. Authorized Class "A" conditional use 23
2. Submission of application 23
3. Contents of application 23
4. Determination of sufficiency 23
5. Review and certification by DRC 24
6. Public hearings 24
7. Review and recommendation by Zoning Commission 25
8. Public hearing before the Board of County Commissioners 26
9. Standards applicable to all Class "A" conditional uses 26
10. Conditions 27
11. Effect of issuance of a development order for Class "A" conditional use . . . 27
12. Appeal. 28
13. Minor deviations. 28
14. Development Order Amendment to Class B Conditional Use. 29
F. Class "B" conditional uses 29
1. Authorized Class "B" conditional use 29
2. Submission of application 29
3. Contents of application 29
4. Determination of sufficiency 29
5. Review and certification by DRC 30
6. Public hearings 30
7. Public hearing before the Zoning Commission 32
8. Standards applicable to all Class "B" conditional use 32
9. Conditions 33
10. Appeal 33
11. Effect of development order for a Class "B" conditional use 34
12. Exhaustion of non-judicial remedies and judicial review 34
13. Minor deviations 35
G. Development Order Amendment to Class B Conditional Use. 35

SEC. 5.5 SPECIAL PERMIT USES. 36
A. Purpose 36
B. Authority 36
C. Authorized special permit use 36
D. Initiation 36
E. Procedure 36
1. Submission of application 36
2. Contents of application 36
3. Determination of sufficiency 37
4. Decision by Zoning Director 37
5. Standards applicable to all special permit uses 37
6. Conditions 38
7. Mailing decision to applicant 38
8. Special permit fees. 38
9. Renewal of Special Permit. 38

F. Exhaustion of non-judicial remedies and judicial review 39
1. Exhaustion of non-judicial remedies 39
2. Judicial relief; petition for writ of certiorari 39
3. Judicial relief for applications for adult entertainment establishments 39

SEC. 5.6 SITE PLAN OR FINAL SUBDIVISION PLAN. 39
A. Purpose 39
B. Applicability 39
1. General. 39
2. Development requiring a Development Review Committee approved Site Plan. 40
3. Development requiring a Development Review Committee approved final Subdivision Plan. 40
C. Preapplication conference 40
D. Procedures 40
1. Initiation 40
2. Submission of application 40
3. Contents of application 40
4. Determination of sufficiency 40
5. Action by DRC 41
6. Certification Standards 41
7. Conditions 42
8. Appeals. 42
9. Mailing of decision. 42
10. Effect of development order for Site Plan or Final Subdivision Plan. 43
11. Site Plan or Final Subdivision Plan general time limitation. 43
12. Minor deviations. 43
E. Exhaustion of non-judicial remedies and judicial review 44

SEC. 5.7 VARIANCES AND APPEAL OF ADMINISTRATIVE DECISIONS. 44
A. Definition and Purpose 44
B. Authority 44
C. Initiation. 45
D. Procedure 45
1. General. 45
2. Contents of application 46
3. Determination of sufficiency 46
4. Review and recommendation by the Zoning Director, or County Engineer . 47
5. Public hearing 47
6. Public hearing on application for variance 48
E. Standards 48
1. General 48
2. Supplemental standards of variances in flood hazard 49
3. Noise violations 50
F. Conditions 50

G. Administrative variance. . . . 50
1. Enlargement or expansion of minor nonconforming use . . . 50
2. Structural encroachments into setbacks of no more than five (5) percent . . . 51
3. Preservation of Vegetation. . . . 51
4. Native Ecosystem Overlay District - Flexible Development Regulations. . . . 51
5. Conditions . . . 51
H. Effect of development order . . . 51
1. General . . . 51
2. Time limitation . . . 52
3. Time Limitation Waiver. . . . 52
4. Subsequent development order(s) . . . 52
I. Amendment to development order for variance . . . 52
J. Appeal of Decision by the Zoning Director for an Administrative Variance. . . . 52

SEC.5.8 COMPLIANCE WITH TIME LIMITATIONS. . . . 53
A. General . . . 53
B. Applicability. . . . 54
C. Procedures. . . . 54
1. Suspension. . . . 54
2. Administrative extension of time. . . . 56
3. Appeal. . . . 57
4. Failure to comply with conditions or time requirements. . . . 57
5. Decision by the Board of County Commissioners or Zoning Commission. . . 60
6. Expiration of time extensions granted by the Board of County Commissioners . . . 61
D. Supplementary regulations for classes of development orders. . . . 61
1. General. . . . 61
2. Classes of development approvals. . . . 61
3. Effect of phasing on time frames for receipt of a required permit or commencement of a required action. . . . 62
4. Effect of modification to a development order on the time requirements of this section. . . . 62

ARTICLE 5.

DEVELOPMENT REVIEW PROCEDURES

SEC.5.1 GENERAL APPLICABILITY.

A. **Applicability**. The provisions of this section shall apply to every application for a development permit. Unless otherwise specified, development orders and permits are transferable to new owners and run with the land.

B. **Applications, fees and deadlines**. Every application for a development permit shall be in a form specified by the County official responsible for reviewing the application and shall be accompanied by a nonrefundable fee as is established from time to time by the Board of County Commissioners to defray the actual cost of processing the application. Unless a delay is requested or caused by a governmental agency with no fault of the application, an additional fee may be charged for all postponed and continued applications, including petitions postponed at the request of an applicant or due to submission of incomplete or inaccurate information. Annually, the Zoning Director shall promulgate a calendar, as may be amended, showing application dates and deadlines consistent with the specifications of this Code. This calendar shall govern all dates in the development review procedure

C. **Preapplication conference and General Application submission**.

1. **General Overview**. An initial preapplication conference and submission of a general application are optional prior to the submission of the initial application for development permit for land. The purpose of the preapplication conference is to familiarize the applicant and Palm Beach County with the applicable County Codes and processes required to completely permit the development proposed by the applicant. A request for a Preapplication Conference may be made by the applicant for the purpose of a conceptual site plan review.

2. **Initiation of request and submission of General Application submission.** Prior to submitting the initial application for development permit, a potential applicant may request in writing a preapplication conference with the Zoning Director, and other applicable agencies. Accompanying the request shall be a General Application submission in a form established by the Zoning Director or the County Engineer, as applicable, and made available to the public, and a nonrefundable application fee that is established from time to time by the Board of County Commissioners to defray the actual cost of processing the General Application submission and holding the preapplication conference. The applicant shall specify in the general application whether the Preapplication Conference is requested for a conceptual site plan review and shall include in the General Application such additional information as required by the Zoning Director.

3. **Contents of General Application submission.** The General Application submission shall include the following.

   a. The name, address and telephone number of the land owner of record.

   b. The name, address and telephone number of the applicant.

   c. A list of all land use, environmental, economic, engineering, legal, or other professionals assisting in the application.

   d. The property tag for the land subject to development, that includes the property control number, a legal description of the land, and the street address, if applicable.

   e. A survey, legal sketch or tax map with the property highlighted, and conceptual site plan of the land proposed for development, including, but not limited to, the proposed use, square footage by use type, and lots layout. However, the square footage by use type and conceptual site plan are not required if the General Application submission occurs prior to a proposed application for development permit for an amendment to the Official Zoning Map.

   f. A short description of the existing site conditions of the land, including its Future Land Use Atlas designation and existing district classification.

   g. The date of the creation of the lot such as plat book and page number or deed, as applicable.

   h. The existing utilities on the land, and any on-site sewage and water facilities.

   i. A history of previous development orders approved for the land, including but not limited to, Site Specific (Future Land Use Atlas) Comprehensive Plan amendments, amendments to the Official Zoning Map, conditional uses, special exceptions, special uses, variances, site plans, final subdivision plans, plats, environmental permits, concurrency permits, building permits, and lot clearing permits.

   j. A location map of the land showing its proximity or location with respect to municipal boundaries within one (1) mile of the proposed development and any municipal annexation areas within one-quarter (1/4) mile of the proposed development, the airport zone, any wellfield protection zones, any flood zone, any drainage districts, any coastal zones and any overlay districts.

   k. A statement of intent to participate in any special density programs, such as a Traditional Neighborhood District (TND), or a Transfer of Development Rights (TDR) or Voluntary Density Bonus Program (VDBP). The indication shall include a short description of reasons why the proposed development is eligible for the special density programs.

   l. A statement whether or not the applicant has any ownership interest in contiguous parcels.

   m. A statement of whether any Development of Regional Impact (DRI) binding letters have been requested or received on the proposal.

4. **Scheduling of preapplication conference.** The Zoning Director shall initiate review of a General Application submission upon receipt of the request for preapplication conference and General Application submission.

   a. If it is determined that the General Application submission is not sufficient, written notice shall be sent to the applicant specifying the deficiencies. The Zoning Director shall take no further action on the General Application submission until the deficiencies are remedied. If the applicant fails to correct the deficiencies within twenty (20) working days of the date it was determined insufficient, the General Application submission and request for preapplication conference shall be considered withdrawn.

   b. If or when the General Application submission is determined sufficient, the Zoning Director shall schedule a preapplication conference with the applicant.

      The preapplication conference shall be scheduled with the applicant, and the Preapplication Conference Committee established for the purpose of providing input at a preapplication conference. The Preapplication Conference Committee shall consist of the Zoning Director, and representatives from the Zoning Division of PZB, the Planning Division of PZB, the Building Division of PZB, the Traffic and Land Development Divisions of DEPW, the ERM, the Parks and Recreation Department, the Property and Real Estate Management Department (PREM), and the PBCPHU, as applicable. The Preapplication Conference Committee shall meet at least twice a month. The applicant shall be notified in advance by the Zoning Director about the preapplication conference, and the time, date, and place of the conference.

5. **Preapplication conference issues.** At the preapplication conference, the applicant and the Preapplication Conference Committee shall discuss the proposed development and, based upon the information provided by the applicant and the provisions of this Code in effect at the time of the preapplication conference, determine in general what provisions of this Code and development review procedures apply to the proposed development. Review time may vary based on the simplicity or the complexity of a proposed project. Unless specifically requested in the general application, the preapplication conference shall not be used to review the site plan or design of the proposed development. For applications to modify previously approved development orders or applications for approval of subsequent site plans pursuant to an approved master plan or site plan, the Zoning Director shall determine what portions of the project shall be subject to this Code using the standards contained in Article 1. The County shall determine what County permits are required and the required sequence of approvals.

   All non-subdivision projects shall be reviewed for the requirement to submit a boundary plat when there is a possibility the proposed development will include any of the following: multiple access, preservation/conservation areas, water management tracts, shared parking, shared stormwater facilities, or other infrastructure. The County Engineer shall determine at preapplication conference if recordation of a boundary plat shall be required, pursuant to the procedures of Article 8, prior to the issuance of a building permit.

6. **Written Summary.** Within five (5) working days of the preapplication conference, the Zoning Director shall provide the applicant with a written summary of the preapplication conference. The written summary shall identify, based upon the information and materials provided by the applicant and the provisions of this Code in effect at the time of the preapplication conference, the provisions of this Code and development review procedures that generally apply to the proposed development. The Zoning Director and Palm Beach County staff shall use the summary of the preapplication conference and the General Application submission to create a tracking form which shall be used to monitor the proposed development through to its last necessary development order. **[Ord. No. 93-4]**

D. Threshold Review.

1. General.

a. Purpose. The purpose of threshold review is to provide information to the applicant and the County on the carrying capacity of the land prior to site design. There are two types of required threshold reviews, one by Department of Environmental Resources Management and one by the Palm Beach County Public Health Unit.

b. Procedure. Simultaneous with the submission of the application for development permit, a Threshold Review shall be completed and submitted pursuant to the procedures and standards of this section for the developments listed below. The response from the reviewing agencies shall be provided to the applicant within fifteen (15) working days after submission of a completed application. The response shall be submitted to the Zoning Division prior to certification of the application for a public hearing or meeting. For the purpose of applying for a development permit, a Certificate of Threshold Review shall remain valid for one (1) year from the date of issuance of the certificate provided the project does not change, or for the life of the review process, whichever is less.

2. Development on property or uses requiring Threshold Review:

a. Uses requiring threshold review by Department of Environmental Resources Management. Development which is proposed on land with one or more of the following site conditions shall be reviewed by Department of Environmental Resources Management. In response, ERM shall determine whether or not and to what extent it reasonably appears the proposed use is subject to Article 9, Environmental Standards and Section 7.5 and 7.6 and how site design could accommodate significant natural features on site.

(1) Wetlands on site
(2) Native upland vegetation on site
(3) Wellfields on site or within a Wellfield Protection Zone
(4) Site previously used to store regulated substances
(5) Applicant proposes to store regulated substances
(6) Applicant proposes to excavate a mined lake on site
(7) Site is located within the Coastal Protection Zone.
(8) Site is located within the Environmental Sensitive Lands.

b. Development on property or uses requiring Threshold Review by the Palm Beach County Public Health Unit. Development which is proposed consisting of any of the following site uses shall be reviewed by the Palm Beach County Public Health Unit. In response, the Palm Beach County Public Health Unit shall advise the applicant of special rules and procedures governing development of the use:

(1) Sanitary Landfills
(2) Solid Waste Transfer
(3) Recycling Plants/Centers
(4) Composting Plants
(5) Chipping and Mulching Plants
(6) Waste & Water treatment plants
(7) Public Bathing Places
(8) Salvage or Junk Yards
(9) Incinerators
(10) Bio Hazardous Waste Processing Plants
(11) Electric Power Generation Plants
(12) Septic Tanks
(13) Private Water Supply Wells
(14) Public Swimming Pools

[Ord. No. 93-4]

3. Contents of application. The application shall be submitted in a form established by the reviewing agency and made available to the public.

[Ord. No. 93-4]

E. Applications for Development Permits. Staff shall accept complete applications for development permits for land development activities regulated by this Code. All applications shall include proof of ownership and if applicable, consent to be represented by an agent. Unless otherwise specified in each section describing particular development review procedures, applications for development permits require sufficiency certification by the Development Review Committee prior to being placed on the agenda for a public hearing or meeting or proceeding to the subsequent step in the development review process. Unless requested by Palm Beach County, applications shall not be significantly altered after certification. In no case shall significant changes be made to proposed site, master or preliminary development plans within ten (10) working days of the public hearing on the application, without a continuance.

[Ord. No. 93-4]

F. Public Hearing procedures for application for development permit.

1. **General.** For each type of development permit governed by this Code, the County official responsible for the permit shall create an application form and set the appropriate fee to cover the cost of processing the application.

2. **Setting the hearing.** When the County official responsible for reviewing the application determines that an application for a development permit is sufficient and that a public hearing is required by this Code, the County official shall consult with the decisionmaking bodies required to conduct the

hearing and shall select a place and time certain for the required hearing, and shall cause the public hearing to be scheduled.

3. **Examination and copying of application and other documents.** At any time upon reasonable request, and during normal business hours, any person may examine an application for development permit and materials submitted in support of or in opposition to an application for development permit in the offices of the County official responsible for reviewing the application. Copies of such materials shall be made available at the fee permitted by law.

4. **Conduct of hearing.**

   a. **Oath or affirmation.** Testimony and evidence shall be given under oath or by affirmation to the body conducting the hearing.

   b. **Rights of all persons.** Any person may appear at a public hearing and submit evidence, either individually or as a representative of an organization. Anyone representing an organization shall present evidence of their authority to speak on behalf of the organization in regard to the matter under consideration. Each person who appears at a public hearing shall be identified, state an address, and if appearing on behalf of an organization, state the name and mailing address of the organization.

   c. **Due order of proceedings.** The body conducting the hearing may exclude testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious. The order of the proceedings shall be as follows:

      (1) The County official responsible for reviewing the application shall present a narrative and graphic description of the application for development permit.
      (2) The County official responsible for reviewing the application shall present a written and oral recommendation, including any report prepared, if relevant. This recommendation shall address each factor required to be considered by this Code prior to approval of the application for development permit. The recommendation of the County official, if relevant, shall be made available to the applicant at least five (5) working days prior to the public hearing.
      (3) The applicant shall present any information the applicant deems appropriate.
      (4) Public testimony shall be heard.
      (5) The Zoning Director, the Executive Director of PZB, the County Engineer, the Director of ERM, the County Health Director, the County Attorney, and any other County staff may respond to any statement made by the applicant or any public comment.
      (6) The applicant may respond to any testimony or evidence presented by the County staff or public.

   d. **Testimony.** In the event any testimony or evidence is excluded as irrelevant, immaterial or unduly repetitious, the person offering such testimony or evidence shall have an opportunity to make a proffer in regard to such testimony or evidence for the record. Such proffer shall be made at the public hearing.

e. **Continuance or postponement of public hearing or meeting.** The body conducting the public hearing or meeting may, on its own motion or at the request of any applicant, continue the public hearing or meeting to a fixed date, time and place. An applicant shall have the right to request and be granted one (1) thirty (30) day entitlement continuance without an additional fee; however, all subsequent continuances shall be granted at the discretion of the body conducting the hearing only upon good cause shown. Any request for continuance shall be submitted in writing five (5) working days prior to the hearing. Except for the entitlement continuance, all applications for development continued for more than six (6) months by the Development Review Committee, must obtain approval from the Zoning Director. All applications not continued for more than six (6) months by the Zoning Director, shall be administratively withdrawn.

f. **Withdrawal of application.** An applicant shall have the right to withdraw an application for development permit at any time prior to the final action on the application by the decisionmaking body. Requests for withdrawal received by the Zoning Director five (5) working days prior to the meeting shall be granted without prejudice as a matter of right. Applicants shall not be entitled to the return of application fees. Thereafter, the governing body may accept the withdrawal without prejudice or with prejudice. With prejudice bars the filing of a successive application which is not materially different, as defined in this section, for one (1) calendar year.

g. **Record.**

(1) The body conducting the public hearing shall record the proceedings by any appropriate means, including an audio record or transcription. A copy of the public hearing record may be acquired by any person upon application to the Executive Director of PZB, and payment of a fee to cover the cost of duplication of the audio record, tape or transcription, whichever is appropriate.

(2) The record of oral proceedings, including testimony and statements of personal opinions, the minutes of the Secretary, all applications, exhibits and papers submitted in any proceeding before the decision-making body, the report and recommendation of the County official responsible for making the recommendation, or other member of the County staff, and the decision and report of the decisionmaking body shall constitute the record.

(3) All records of decisionmaking bodies shall be public records, open for review or inspection at the PZB Department during normal business hours upon reasonable notice.

(4) It is the responsibility of any person appealing a decision of any body conducting a public meeting or hearing pursuant to this Code, to ensure a verbatim record of the proceeding shall be made, including the testimony and evidence on which the appeal is to be based.

[Ord. No. 94-23]

G. **Actions by decision-making persons and bodies.**

1. **General.** All decision-making persons and bodies shall act in accord with the time limits established in this Code. Action shall be taken as promptly as possible in consideration of the interests of the citizens of Palm Beach County.

2. **Findings.** All decisions shall be in writing and shall include at least the following elements:

   a. A summary of the information presented before the decisionmaking body;

   b. A summary of all documentary evidence submitted into the record to the decisionmaking body and which the decisionmaking body considered in making its decision;

   c. A statement of specific findings of fact and a statement of the basis upon which such facts were determined, with specific reference to the relevant standards set forth in the Comprehensive Plan and this Code; and

   d. A statement of approval, approval with conditions, or denial.

3. **Notification.** Notification of a decision-making body's decision shall be provided by the County official responsible for reviewing and processing the application to the applicant. A copy of the decision shall also be made available to the applicant at the PZB Department, the office of DEPW, or the ERM Department, whichever is appropriate, during normal business hours, within a reasonable period of time after the decision.

H. **Development Order Amendments.**

1. **General.** Several sections of this article provide criteria to determine whether or not staff may approve minor amendments to previously approved development orders. Proposed amendments which do not qualify for staff approval shall be submitted and considered based on the applicable development review procedures stated herein, except that certain amendments may be considered in an Expedited Application Consideration process.

2. **Expedited Application Consideration.** It is the intent of this subsection to provide for a fast consideration and review process for certain minor development order amendment proposals. These amendments are ones which fail to meet the criteria for staff review and approval or denial, or by law must return to the body which issued the development order for the project. These amendments have no impact on surrounding property. It is the finding that because of the minor nature of these projects, one or more of the development review steps are unnecessary. Examples of amendments likely to be adequately reviewed in an expedited application consideration process include deletion of land area where the resultant land area may or may not require rezoning, condition modification, and reclassification of land use zones in planned development districts.

a. **Criteria**. Applications shall meet the following criteria in order to be reviewed, approved, approved with conditions, or denied in an expedited application consideration process. All of the following criteria shall be met to participate in an expedited consideration process:

(1) Approval of the Zoning Director and the County Engineer shall be obtained. The Zoning Director and the County Engineer shall consult with any other department responsible for the conditions and review and approve or deny the request to obtain expedited consideration based on compatibility of the request with the area surrounding the proposal and, if a portion of a large development, on the area surrounding the development. The magnitude of the change requested shall also be considered. The County Engineer and the Zoning Director shall only permit expedited consideration for proposals which have minimal site design impact, no increase in impacts beyond the project's boundary and which, if approved, will be compatible with surrounding areas.

(2) The proposed application, if approved, will not increase intensity or density of the project.

(3) Evidence of compliance with all conditions of development approval required to be satisfied to date is provided by the applicant.

(4) No change to the threshold certificate, except alternation of legal description, shall occur.

(5) The proposed amendment is not made to the land area within a Development of Regional Impact (DRI).

(6) Any impacts shall be internal to the project or area applying for modification.

b. **Procedures**. After approval of the County Engineer and the Zoning Director to participate in an expedited application consideration process, the application shall be submitted and reviewed pursuant to the applicable development approval procedure, except that:

(1) No new threshold certification shall be required; and

(2) The proposed modification may proceed directly to the next Board of County Commissioners hearing given advertising requirements after the application is certified by the Development Review Committee.

[Ord. No. 93-4]

I. Consolidated applications. To the extent practicable, applications for development permits may be consolidated for review pursuant to an agreement between the applicant and the Zoning Director as part of the preapplication conference. When applications for development permits are consolidated pursuant to this section, the time periods for review shall be no less than those established for the application for development permit with the longest review period.

J. Successive applications.

1. **Application for development permit.** Whenever any application for a development permit is denied with prejudice, an application for a development permit for all or a part of the same land shall not be considered for a period of one (1) year after the date of denial unless the subsequent application involves a development proposal that is materially different from the prior proposal, or unless the person or a majority of the members of the decisionmaking body that made the final decision on the application determines that the prior denial was based on a material mistake of fact. For the purposes of this section, an application for a development permit shall be considered materially different if it involves a change in use, or a change in intensity or density of use of twenty five (25) percent or more. The body charged with conducting the initial public hearing under such successive application shall resolve any question concerning the similarity of a second application or other questions that may develop under this section.

2. **Site Specific (Future Land Use Atlas) amendment to comprehensive plan.** Whenever an application for a Site Specific (Future Land Use Atlas) amendment to the Comprehensive Plan is denied, an application for a Site Specific (Future Land Use Atlas) amendment to the Comprehensive Plan for all or a portion of that land shall not be considered for two (2) years after the decision.

[Ord. No. 94-23]

K. **Suspension of development review proceedings.** Any application for a development permit may be suspended during the pendency of a code enforcement proceeding pursuant to Art. 14, Enforcement Proceedings and Penalties, or for any code violation involving all or a portion of the land proposed for development, if it is demonstrated in writing by the withholding agency that continuation of development review processing could be adverse to the public interest.

[Ord. No. 94-23]

L. **Violation of condition of development order.** A violation of any condition of any development order shall be considered a violation of this Code. The violation shall be rectified prior to any public hearing or meeting on the issuance of any subsequent development order or permit for that project, unless the subsequent Development Order application seeks to amend the condition that has been violated. Unless otherwise specified in the development order, an approved use must comply with all conditions prior to implementing the approval.

[Ord. No. 93-4]

M. **Misrepresentation.** If there is evidence that an application for a development order was considered wherein there was misrepresentation, fraud, deceit, or a deliberate error of omission, the County shall initiate a rehearing to reconsider the development order. The County shall re-approve, approve with new conditions, or deny the development order at the rehearing based on the standards in this Article. If evidence of misrepresentation or neglect is discovered during the application review and approval process, the application shall be decertified and remanded to sufficiency review.

N. Development Order Abandonment.

1. **General.** A development order for a Conditional Use class "A" or "B" or similar development order granted under either Ordinances 3-57 or 73-2 may be abandoned according to the procedures in this section. A development order may be abandoned even though it may have been concurrently approved with a rezoning request.

2. **Development Orders Not Implemented.** All development orders which are never implemented shall be either:

   a. **Abandoned.**Abandoned simultaneously with issuance of a subsequent development order;

   b. **Administratively abandoned.**Administratively abandoned upon demonstration to the Zoning Director that the development order was not implemented; or

   c. **Reviewed for revocation.** Reviewed for revocation pursuant to Section 5.8 of this Code.

3. **Implemented Development Orders.** Certain implemented development orders qualify for administrative abandonment. Other implemented development orders require legislative abandonment by the Board of County Commissioners.

   a. **Administrative Abandonment.** A development order for a Conditional Use class "A" or "B" or similar development order granted under either Ordinance 3-57 or 73-2 which was used, implemented or benefitted from may be administratively abandoned by filing an application with the Zoning Director demonstrating that the following criteria are met.

      (1) All conditions of approval have been met;
      (2) There is no reliance by other parties on additional performances.
      (3) Consent of all property owners has been received.

   b. **Legislative Abandonment.** A development order which was used, implemented or benefitted from may be abandoned simultaneously with the issuance of a subsequent development order issued by the Board of County Commissioners or the property owner may elect to petition the Board of County Commissioners to abandon the development order through expedited application review process, pursuant to Section 5.1 of this Code.

4. **Additional Guidelines.** In determining whether a development was used, implemented or benefitted from, consideration shall be given to the following factors:

   a. Whether any construction or additional construction authorized in the Development Order has commenced.

   b. Whether a physical or economic use of the development order has occurred, including physical or economic expansion.

[Ord. No. 93-4]
[Ord. No. 93-4; February 2, 1993] [Ord. No. 94-23; October 4, 1994]

SEC.5.2 SITE SPECIFIC (FUTURE LAND USE ATLAS) COMPREHENSIVE PLAN AMENDMENTS.

A. **Purpose**. The purpose of this section is to provide a means for changing the boundaries or designations of the Future Land Use Atlas by means of Site Specific amendments to the Comprehensive Plan. It is not intended to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make necessary adjustments in light of changed conditions. In determining whether to grant a requested amendment, the Board of County Commissioners shall consider, in addition to the factors set forth in this section, the consistency of the proposed amendment with the intent of the Palm Beach County Comprehensive Plan, Treasure Coast Regional Policy Plan, State of Florida Comprehensive Growth Management Plan, Chapter 163, Fla. Stat., and Rules 9J-5 and 9J-11, F.A.C.

B. **Authority**. The Board of County Commissioners may amend the boundaries or designations of the Future Land Use Atlas of the Comprehensive Plan upon compliance with the provisions of this section.

C. **Initiation**. Amendments may be proposed by the Board of County Commissioners, the Local Planning Agency, or the owner of the land to be affected by a proposed amendment.

D. **Procedure**.

1. **Preapplication conference.** A potential applicant for a Site Specific amendment may request in writing an optional preapplication conference with the Planning Director. Prior to the optional preapplication conference, the applicant shall provide to the Planning Director a description of the character, location and magnitude of the proposed amendment and any other information the potential applicant deems relevant. The purpose of the preapplication conference is to acquaint the potential applicant with the requirements for a Site Specific amendment. The substance of the optional preapplication conference shall be recorded in a summary prepared by the Planning Director. The letter shall be mailed to the applicant by the Planning Director within seven (7) working days after the optional preapplication conference. The summary shall set forth the subjects discussed at the preapplication conference and the County's position in regard to the subject matters discussed.

2. **Timing.** An application by a property owner for a Site Specific amendment shall be accepted for review and processing twice each year. That date shall be announced four (4) months in advance by the Board of County Commissioners. There shall be two (2) exceptions to this timing requirement. An amendment shall be considered at any time if it is directly related to a development of regional impact (DRI), including a substantial deviation for a DRI. A small scale development shall also be considered at any time subject to Chapter 163, Fla. Stat. Nothing in this section shall be deemed to require favorable consideration of the amendment solely because it is related to a development of regional impact or because it is a small scale development amendment.

3. **Submission of application.** An application for a Site Specific amendment shall be submitted to the Planning Director along with a nonrefundable application fee that is established by the Board of County Commissioners.

4. **Contents of application.** The application shall be submitted in a form established by the Planning Director.

5. **Determination of sufficiency.** The Planning Director shall determine whether the application is sufficient and includes data necessary to evaluate the application.

6. **Review, report and recommendation by Planning Director.** If the application is determined sufficient (as long as it is determined sufficient by the date established by the Planning Director for the review of Site Specific amendments, the Planning Director shall review the application, consult with other agencies, prepare a staff report (which incorporates the comments of the other agencies), and make a recommendation of approval, approval with conditions, or disapproval based on the standards in Sec. 5.2.D.10. The Planning Director shall send a copy of the staff report to the applicant by mail on the day the staff report is completed, along with written notification of the time and place the application will be considered by the Land Use Advisory Board.

7. **Notice.** Notice of a proposed amendment for any public hearing shall be provided by publication of advertisement, mailed notice and posting as pursuant to the terms of this section.

   a. **Advertisement.** The required advertisements shall meet the requirements of Sec. 163.3184(15)(c) and Sec. 125.66(4)(b)2, Fla. Stat. as amended from time to time.

   b. **Mailing.** A notice of a proposed Plan Amendment shall be mailed to all owners of real property located within five hundred (500) feet of the periphery of the land to be affected by the requested change, whose names and addresses are known by reference to the latest published ad valorem tax records of the County property appraiser, except that when real property consists of a condominium, notice shall be given to the condominium association and all real property owners living within five hundred (500) feet. If the area within five hundred (500) feet is owned by the applicant or partner in interest, the five hundred (500) foot notification boundary shall be extended from these parcels. All property owners associations and cooperatives within the area as well as all counties and municipalities within one mile of the area shall be notified. Areas that a municipality has identified as a future annexation area shall also give notice to the municipality. The notice shall state the substance of the proposal and shall set a date, time and place for the public hearing. The notice shall contain a location map clearly indicating the area covered by the proposal including major streets, and a statement that interested parties may appear at the public hearing and be heard regarding transmittal or adoption of the amendment. Such notice shall be given approximately fifteen (15) to thirty (30) calendar days prior to the date set for the first public hearing by depositing such notice in the mail by certified or first class mail, properly addressed and postage prepaid, to each owner as the ownership appears on the last approved tax roll. A copy of such notice shall be kept available for public inspection during regular business hours at the office of the Board of County Commissioners. If the property is undergoing a simultaneous land use change and rezoning, the notice for the rezoning may be included in the notice required for the land use change.

c. **Posting.** The land subject to the application shall be posted with a notice of the public hearing on a sign provided by the County at least fifteen (15) calendar days in advance of any public hearing. One (1) notice shall be posted for each five hundred (500) feet of frontage along a public street. Notice shall be setback no more than twenty five (25) feet from the street. All signs shall be erected in full view of the public on each street side of the land subject to the application. Where the land does not have frontage on a public street, signs shall be erected on the nearest street right-of-way with an attached notation indicating generally the direction and distance to the land subject to the application. If the change in land use is being requested by a public agency, the Local Planning Agency, or the Board of County Commissioners, signs shall be erected on the nearest street right-of-way or at major intersections leading to and within the subject property. The notice shall contain a map indicating the boundaries of the subject property. The signs shall be removed by the applicant after the BCC transmittal hearing date (adoption hearing date for small scale development amendments). The failure of any such posted notice to remain in place after the notice has been posted shall not be deemed a failure to comply with this requirement, or be grounds to challenge the validity of any decision made by the Board of County Commissioners.

d. **Exceptions to Mailing and Posting.** The mailing and posting notice requirements shall not apply to actions by the Board of County Commissioners initiating any of the following:

(1) A site specific land use change subsequent to a land use action resulting from the Voluntary Density Bonus Program (Section 6.9) or the Transfer of Development Rights - Special Density Program (Section 6.10);

(2) A land use change to a Conservation designation following acquisition by a public agency;

(3) A site specific land use change initiated by the BCC, to reflect existing conditions;

(4) A site specific land use change initiated by the BCC, to comply with previous approved projects; and

(5) A site specific land use change as deemed appropriate by the Board of County Commissioners.

At the time the land use change is initiated by the Board of County Commissioners, the Planning Director shall make a recommendation as to the level of notification for the specific change. The Board of County Commissioners shall direct the Planning Director to notice the land use change, as deemed appropriate, by advertisement, mail or posting in accordance with the terms herein.

8. **Action by the Land Use Advisory Board sitting as the Local Planning Agency.** The Local Planning Agency public hearing shall be advertised in a newspaper of general circulation in accordance with requirements set forth in Sec. 125.66(2), and Sec. 163.3164(18), Fla. Stat., as amended from time to time.

The Local Planning Agency shall conduct a public hearing on the application pursuant to the procedures in Sec. 5.1.F, and make recommendations regarding the proposed amendments to the Board of County Commissioners. At the public hearing, the Local Planning Agency shall review the application, the staff report, the relevant support materials, and public testimony given at the hearings. At the close of the public hearing, the Local Planning Agency shall vote on its recommendations and findings based on the standards in Sec. 5.2.D.10.

9. **Action by Board of County Commissioners.**

   a. **Transmittal public hearing.** The transmittal public hearing shall be held on a weekday at least seven (7) calendar days after notice is published pursuant to Section 163.3184(15)(b)1, Fla. Stat., as amended from time to time. Prior to transmittal to DCA, the Board of County Commissioners shall conduct one (1) transmittal public hearing on the application pursuant to the procedures in Sec. 5.1.G. At the public hearing, the Board of County Commissioners shall consider the application, the staff report, the relevant support materials, the recommendations of the Local Planning Agency, and the public testimony given at the public hearing, and based on the standards in Sec. 5.2.D.10, and by an affirmative vote of a majority of the members of the Board of County Commissioners present at the hearing, vote to approve, approve with conditions, or deny for transmittal the application. Failure of the Board of County Commissioners to approve the transmittal of an application for a Site Specific amendment shall be deemed a denial of the proposed Site Specific amendment.

   b. **Adoption public hearing.** The adoption public hearing shall be on a weekday at least five (5) calendar days after the day the notice for the public hearing is published pursuant to Sec. 163.3184(15)(b)(2), Fla. Stat., as amended. Pursuant to the time frames in Section 163.3184(15)(a), Fla. Stat., the Board of County Commissioners shall conduct at least one (1) adoption public hearing on the application. At the public hearing, the Board of County Commissioners shall consider the application, the staff report, the relevant support materials, the DCA comments, and the public testimony given at the public hearing, and based on the standards in Sec. 5.2.D.10, vote to adopt or not to adopt an ordinance making a Site Specific amendment. A decision to adopt an ordinance making a Site Specific amendment shall require a majority vote of the members of the Board of County Commissioners present at the hearing.

   c. **Small Scale Development Amendments:** Small Scale Development Amendments shall require only one public hearing before the Board of County Commissioners, which shall be an adoption public hearing, pursuant to Sec. 163.3187(1)(c)(3), and content provisions of Sec. 125.66(4)(a) Fla. Stat. as amended from time to time.

10. **Standards.** The adoption of an ordinance to make a Site Specific amendment shall be based on one (1) or more of the following factors, and a demonstrated need to amend the Future Land Use Atlas, as long as the Comprehensive Plan maintains its internal consistency.

   a. **Changed projections.** Changed projections (e.g., regarding public service needs) in the Comprehensive Plan, including but not limited to amendments that would ensure provision of public facilities;

b. **Changed assumptions.** Changed assumptions (e.g., regarding demographic trends or land availability) in the Comprehensive Plan, including but not limited to the fact that growth in the area, in terms of the development of vacant land, new development, and the availability of public services has altered the character such that the proposed amendment is now reasonable and consistent with the land use characteristics;

c. **Data errors.** Data errors, including errors in mapping, vegetative types and natural features in the Comprehensive Plan;

d. **New issues.** New issues that have risen since adoption of the Comprehensive Plan;

e. **Additional detail or comprehensiveness.** Recognition of a need for additional detail or comprehensiveness in the Comprehensive Plan; or

f. **Data updates.** Data updates.

[Ord. No. 93-4] [Ord. No. 94-23][Ord. No. 95-24] [Ord. No. 95-38]
[Ord. No. 93-4; February 2, 1995] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-8; March 21, 1995] [Ord. No. 95-24; July 11, 1995] [Ord. No. 95-38; September 19, 1995]

SEC. 5.3 OFFICIAL ZONING MAP AMENDMENTS.

A. **Purpose.** The purpose of this section is to provide a means for changing the boundaries of the Official Zoning Map and applying the special provisions of overlay districts, except that Planned Development boundary changes shall be approved pursuant to the procedures and standards of Sec. 6.8, Planned Development District Regulations. This section is not intended to relieve particular hardships, or to confer special privileges or rights on any person, but only to make necessary adjustments in light of changed conditions. In determining whether to grant a requested amendment, the Board of County Commissioners shall consider, in addition to the factors set forth in this section, the consistency of the proposed amendment with the intent of the Comprehensive Plan.

B. **Authority**. The Board of County Commissioners may amend the boundaries of the Official Zoning Map upon compliance with the provisions of this section.

C. **Initiation.** An application for a development permit for an amendment to the Official Zoning Map may be proposed by the Board of County Commissioners, the Zoning Commission, the Executive Director of PZB, or the owner or another person having a contractual interest in the land affected by a proposed amendment, or their agent with submission of proper consents.

D. **Procedure.**

1. **Submission of application**. An application for a development permit for an amendment to the Official Zoning Map shall be submitted to the Zoning Director along with a nonrefundable application fee that is established by the Board of County Commissioners from time to time to defray the actual cost of processing the application.

2. **Contents of application.** The application shall be submitted in a form established by the Zoning Director and made available to the public. The application shall include a certificate of concurrency reservation or a certificate of concurrency exemption issued pursuant to Article 11 (Adequate Public Facilities Standards).

3. **Determination of sufficiency.** The Zoning Director shall determine if the application is sufficient and includes data necessary to evaluate the application.

   a. If it is determined that the application is not sufficient, written notice shall be delivered to the applicant specifying the deficiencies. The Zoning Director shall take no further action on the application until the deficiencies are remedied.
   b. If or when the application is determined sufficient, the Zoning Director shall place the application on the agenda of the next available hearing consistent with the Zoning Director's calendar.

4. **Review, report and recommendation.**

   a. When the application is determined by the Planning Director to be consistent with the Comprehensive Plan and sufficient by the Zoning Director, the Zoning Director shall review the application, consult with the other relevant County agencies at a meeting of the Development Review Committee about the application, and prepare a staff report (which incorporates the comments of the other agencies) recommending approval, approval with conditions, or disapproval based on the standards in Sec. 5.3.D.9.
      (1) An appeal of a decision by the Planning Director that the application is inconsistent with the Comprehensive plan shall be made to the using forms and procedures established by the Planning Director.
      (2) An appeal of a decision by the Zoning Director not to certify an application shall be made to the Board of County Commissioners using forms and procedures established by the Zoning Director.

   b. The Zoning Director shall mail a copy of the staff report to the applicant within three (3) working days from the date the staff report is completed.

   c. The public hearing on the application shall then be scheduled for the first available regularly scheduled Zoning Commission meeting by which time the public notice requirements can be satisfied, or such time as is mutually agreed upon between the applicant and the Zoning Director.

5. **Public hearings.**

   a. **All applications initiated by others than the County or applications initiated by the County on properties less than 10 contiguous acres.** The Zoning Commission and the Board of County Commissioners each shall hold at least one (1) public hearing on a proposed amendment to the boundaries of the Official Zoning Map when that amendment is initiated by a party other than the Board of County Commissioners or initiated by the County on property that would affect less than 10 contiguous acres of unincorporated land area.

b. Applications initiated by the County on properties 10 or more contiguous acres in unincorporated County. The Zoning Commission shall hold one (1) public hearing and the Board of County Commissioners shall hold two (2) public hearings on a proposed amendment to the boundaries of the Official Zoning Map when the amendment would affect 10 or more contiguous acres of the total unincorporated land area. The first Zoning Commission public hearing and the first Board of County Commissioners public hearing shall be held at least seven (7) calendar days after the day the advertisement for each of the respective public hearings is published. The second Board of County Commissioners public hearing shall be held at least ten (10) calendar days after the first Board of County Commissioners public hearing, and notice shall be published at least five (5) calendar days prior to the public hearing. Notice shall be required in accordance with Sec. 125.66(4)(b)2, Fla. Stat., as amended.

6. Notice. Notice of the public hearing shall be made pursuant to the following standards.

a. All applications initiated by others than the County or Applications initiated by the County on properties less than 10 contiguous acres.

(1) Publication. There shall be published at least ten (10) calendar days in advance of the initial public hearing and at least ten (10) calendar days prior to the second public hearing on an application for development permit for a map amendment, a notice of such hearing in a newspaper of general circulation in Palm Beach County, in accordance with Sec. 125.66(2), Fla. Stat., as amended.

(2) Mailing. Except as provided in Sec. 5.8 of this Article, courtesy notice of a proposed amendment to the boundaries of the Official Zoning Map shall be mailed to all owners of real property located within three hundred (300) feet of the periphery of the land to be affected by the requested change, whose names and addresses are known by reference to the latest published ad valorem tax records of the County property appraiser, except that when real property consists of a condominium, notice shall be given to the condominium association and all real property owners living in a building within three hundred (300) feet. If the area within three hundred (300) feet is owned by the applicant or partner in interest, then the three hundred (300) foot notification boundary shall be extended from these parcels. All property owners associations and cooperatives within this area as well as all counties and municipalities within one mile of the area shall also be notified. Municipalities shall be notified of proposed changes within the future annexation area of the municipality. The notice shall state the substance of the proposal and shall set a date, time and place for the public hearing. The notice shall contain a location map clearly indicating the area covered by the proposal including major streets, and a statement that interested parties may appear at the public hearing and be heard regarding the proposal. Such notice shall be given approximately fifteen (15) to thirty (30) calendar days prior to the date set for the first public hearing by depositing such notice in the mail by certified mail, return receipt requested, properly addressed and postage prepaid, to each owner as the ownership appears on the last approved tax roll. A copy of such notice shall be kept available for public inspection during regular business hours at the office of the Board of County Commissioners. For applications initiated by the County, certified, mailed notice shall be given to the property owner of the land proposed for the amendment. This notice shall be given at least thirty (30) days prior to the hearing before the Board.

(3) **Posting.** The land subject to the application shall be posted with a notice of the public hearing on a sign provided by the County at least fifteen (15) calendar days in advance of any public hearing. One (1) notice shall be posted for each one hundred (100) feet of frontage along a public street. Notice shall be setback no more than twenty five (25) feet from the street. All signs shall be erected in full view of the public on each street side of the land subject to the application. Where the land does not have frontage on a public street, signs shall be erected on the nearest street right-of-way with an attached notation indicating generally the direction and distance to the land subject to the application. If the amendment is being requested by a public agency or the Board of County Commissioners, signs shall be erected on the nearest street right-of-way or at major intersections leading to and within the subject property. The notice shall contain a map indicating the boundaries of the subject property. The signs shall be removed by the applicant after the decision is rendered on the application. The failure of any such posted notice to remain in place after the notice has been posted shall not be deemed a failure to comply with this requirement, or be grounds to challenge the validity of any decision made by the Board of County Commissioners.

(4) **Other notice.** Notice of all public hearings shall be mailed to all organizations, associations and other interested persons or groups that have registered with the Executive Director of PZB and paid an annual fee to defray the cost of mailing.

b. Applications initiated by the County on properties ten (10) or more contiguous acres.

(1) **Publication.**

(a) **General.** Notice of a proposed amendment to the Official Zoning Map affecting ten (10) contiguous acres or more of the total land area shall be provided by publication of advertisement.

(b) **Form.** Advertisements shall be made in accordance with Sec. 125.66(4)(b)2, Fla. Stat., as amended.

THIS SPACE INTENTIONALLY LEFT BLANK

(2) **Mailing.** In lieu of publishing the advertisements set out in Sec. 5.3.D.6.a(1) and 5.3.D.6.b(1), notices may be mailed to each person owning land within the area covered by the proposal in accordance with Sec. 125.66(4)(b)3, Fla. Stat., as amended.

(3) **Other notice.** Notice of all public hearings shall be mailed to all organizations, associations and other interested persons or groups that have registered with the Executive Director of PZB and paid an annual fee to defray the cost of mailing.

7. **Action by Zoning Commission.** The Zoning Commission shall conduct a public hearing on the application pursuant to the procedures in Sec. 5.1.G. At the public hearing, the Zoning Commission shall consider the application, the staff report, the relevant support materials, and public testimony given at the hearing. If at any time during the public hearing the Zoning Commission determines that the application is based upon incomplete, inaccurate information or misstatements of fact, it may refer the application back to the Development Review Committee for further review and a revised staff report. After close of the public hearing, the Zoning Commission shall recommend to the Board of County Commissioners approval, approval with conditions, or disapproval of the application based upon the standards in Sec. 5.3.D.9.

8. **Action by Board of County Commissioners.**

   a. **Scheduling of public hearing(s).** After the review and recommendation of the Zoning Commission, the application shall be scheduled for consideration at a public hearing(s) by the Board of County Commissioners at the first available regularly scheduled public hearing by which time the public notice requirements can be satisfied, or such time as is mutually agreed upon between the applicant and the Zoning Director.

THIS SPACE INTENTIONALLY LEFT BLANK

b. **The public hearing(s).** At the public hearing(s), the Board of County Commissioners shall consider the application, all relevant support materials, the staff report, the recommendation of the Zoning Commission, and the testimony given and evidence introduced into the record at the public hearing(s). If at any time during the public hearing the Board of County Commissioners determines that the application is based upon incomplete, or inaccurate information or misstatements of fact, it may refer the application back to the Development Review Committee for further review and a revised staff report, or to the Zoning Commission for revised recommendations.

c. **Decision.** At the conclusion of the final public hearing, the Board of County Commissioners shall decide to adopt or not to adopt the proposed amendment based on the standards in Sec. 5.3.D.9, thereby adopting a resolution enacting or denying a proposed amendment by not less than a majority of a quorum present. The resolution shall be filed with the Clerk of the Circuit Court.

9. **Standards.** In adopting a proposed amendment, the Board of County Commissioners shall consider the following factors, provided however, that in no event shall an amendment be approved that shall result in an incompatibility with the area in which the proposed development is located. Failure of any proposed amendment to meet any standard below shall be deemed adverse to the public interest and the amendment may not be approved.

   a. **Consistent with Comprehensive Plan.** Whether the proposed amendment is consistent with the Comprehensive Plan;

   b. **Consistent with this Code.** Whether the proposed amendment is in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code;

   c. **Compatible with surrounding uses and zones.** Whether and the extent to which the proposed amendment is compatible as defined in this Code and generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land. In making this finding, the Board may apply the appropriate zoning district;

   d. **Changed conditions.** Whether and the extent to which there are any changed conditions that require an amendment;

   e. **Effect on natural environment.** Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment;

   f. **Development patterns.** Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern;

   g. **Consistency with neighborhood plan.** Whether and to what extent the proposed district is consistent with applicable neighborhood plans; and

h. Adequate public facilities. The proposed rezoning complies with Article 11, Adequate Public Facilities.

[Ord. No. 93-4]; [Ord. No. 95-8] [Ord. No. 95-24] [Ord. No. 95-38]

E. Effect of approval of a map amendment.

1. **General.** Approval of a Map Amendment shall be deemed to authorize only the particular zone district for which it is approved. A Map Amendment shall run with the land.

2. **Time Limitations.** A rezoning shall remain valid for two (2) years of the date of the approval of the Map Amendment. The rezoning shall be considered for revocation, pursuant to Section 5.8 of this Article, by the Board of County Commissioners if a subsequent development order has not been issued within this time limit.

F. Appeal.

Any person aggrieved by a decision of the Board of County Commissioners on an application for development permit for an amendment to the Official Zoning Map, may apply for judicial relief by the filing of a Petition for Writ of Certiorari in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, within thirty (30) calendar days of the date the zoning resolution is filed with the Clerk of the Circuit Court, in accordance with the procedure and within the time provided by the Florida Rules of Civil Procedure and the Florida Rules of Appellate Procedure.

[Ord. No. 95-24] [Ord. No. 95-38]

[Ord. No. 93-4; February 2, 1993] [Ord. No. 95-8; March 21, 1995] [Ord. No. 95-24; July 11, 1995] [Ord. No. 95-38; September 19, 1995]

SEC. 5.4 CONDITIONAL USES.

A. Purpose. Conditional uses are those uses that are generally compatible with the other uses permitted in a district, but that require individual review of their location, design, configuration and intensity and density of use, structures, and may require the imposition of conditions pertinent thereto in order to ensure the appropriateness and compatibility of the use at a particular location.

B. Authority.

1. **Class "A" conditional uses.** The Board of County Commissioners, in accordance with the procedures, standards and limitations of this section, shall approve, approve with conditions, or deny an application for a development permit for a Class "A" conditional use after certification by the Development Review Committee and recommendation by the Zoning Commission. When approved, Class "A" conditional uses shall be noted on the official Zoning map.

2. **Class "B" conditional uses.** The Zoning Commission, in accordance with the procedures, standards and limitations of this section, shall approve, approve with conditions, or deny an application for a development permit for a Class "B" conditional use after certification by the Development Review Committee. The Zoning Commission's decision on a Class "B" conditional use may be appealed to

the Board of County Commissioners by the applicant, the Executive Director of PZB, or any affected person. When approved, a Class "B" conditional use shall be noted on the official Zoning map.
[Ord. No. 93-4]

C. **Initiation.** An application for a development permit for a Class "A" conditional use or Class "B" conditional use shall be submitted by the owner, or any other person having a written contractual interest in the land for which the conditional use is proposed, or their authorized agent.

D. **Preapplication conference.** A preapplication conference is optional but encouraged pursuant to Sec. 5.1.C, prior to the submission of the initial application for a conditional use development permit.
[Ord. No. 93-4]

E. **Class "A" conditional use.**

1. **Authorized Class "A" conditional use.** Only those uses that are authorized as Class "A" conditional uses in Table 6.4-1, Use Regulations Schedule, may be approved as Class "A" conditional uses. The designation of a use as a Class "A" conditional use in a district in Table 6.4-1, Use Regulations Schedule, does not constitute an authorization of such use or an assurance that such use will be approved under this Code. Rather, each proposed Class "A" conditional use shall be evaluated by the Development Review Committee, the Zoning Commission, and the Board of County Commissioners for compliance with the standards set forth in this section and the applicable district.

2. **Submission of application.** An application for a development permit for a Class "A" conditional use shall be submitted to the Zoning Director along with a nonrefundable application fee that is established by the Board of County Commissioners from time to time to defray the actual cost of processing the application.

3. **Contents of application.** The application shall be submitted in a form established by the Zoning Director and made available to the public.

4. **Determination of sufficiency.** The Zoning Director shall determine if the application is sufficient and includes data necessary to evaluate the application.

   a. If it is determined that the application is not sufficient, written notice shall be served on the applicant specifying the deficiencies. The Zoning Director shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within twenty (20) working days after it is determined not sufficient, the application shall be considered withdrawn.
   b. If or when the application is determined sufficient, the Zoning Director shall place the application on the agenda of the next available hearing consistent with the Zoning Director's calendar.

5. **Review and certification by DRC.**

   a. Three (3) working days before the Development Review Committee, the Development Review Committee shall provide the applicant with a draft list of issues, if any. The DRC shall be convened pursuant to the Zoning Director's calendar, to review the application and determine whether it should be certified. An application shall not be certified unless it meets the minimum standards for that use pursuant to Article 6 and Sec. 5.4.E.9. The decision by the Planning Director on whether to issue an Adequate Public Facilities Determination, a Certificate of Concurrency Reservation, a Certificate of Concurrency Reservation with conditions, or a Conditional Certificate of Concurrency Reservation, whichever is appropriate, pursuant to Art. 11, Adequate Public Facility Standards, shall be made prior to the Development Review Committee's decision on whether to certify an application. If a decision on adequate public facilities shall be delayed pursuant to the procedures and standards of Art. 11, Adequate Public Facilities Standards, the time for completion of the Development Review Committee decision shall be delayed so that the Planning Director's decision pursuant to Art 11, Adequate Public Facility Standards, is made prior to the Development Review Committee's decision on whether to certify the application. An application shall not be forwarded to the Zoning Commission for review until it has been certified by the Development Review Committee.

   b. At the Development Review Committee meeting, the Zoning Director shall advise the applicant of the Development Review Committee's decision and any steps necessary to comply with this Code and mail a copy of the decision to the applicant within three (3) working days of the day of the Development Review Committee's decision. An applicant shall be provided one (1) working day after DRC to satisfy any requirements without returning to a subsequent DRC meeting. Continuances shall be governed by Section 5.1 of this Code.

   c. If the application is certified, the public hearing on the application shall then be scheduled for the first available regularly scheduled Zoning Commission meeting by the time the public notice requirements can be satisfied, or such time as is mutually agreed upon between the applicant and the Zoning Director.

   d. An appeal of a decision not to certify an application for a Class A Conditional Use may be made to the Board of County Commissioners using the form and procedures established by the Zoning Director.

6. **Public hearings.** The Zoning Commission and the Board of County Commissioners shall each hold at least one (1) public hearing on a weekday, on an application for development permit for a Class "A" conditional use.

   a. **Notice.** Notice of the public hearing shall be made, pursuant to the following standards.

      (1) **Publication**. Public notice shall be published in a newspaper of general circulation in Palm Beach County at least ten (10) calendar days in advance of Zoning Commission public hearing and at least ten (10) calendar days prior to the Board of County Commissioners public hearing on an application for development permit for a Class "A" conditional use. The notice shall be published in accordance with Sec. 125.66(2) of the Fla. Stat.

(2) **Mailing.** A courtesy notice shall also be provided by certified mail, return receipt requested, to all owners of land within three hundred (300) feet of the periphery of the land subject to the application, whose names and addresses are known by reference to the latest published ad valorem tax records of the County property appraiser, except that when an owner of real property consists of a condominium, notice shall be given to the condominium association and all real property owners living within three hundred (300) feet. If the area within three hundred (300) feet is owned by the applicant or partner in interest, then the three hundred (300) foot notification boundary shall be extended from these parcels. All property owners associations and cooperatives within this area as well as all counties and municipalities within one mile of the area shall also be notified. Areas that a municipality has identified as a future annexation area shall also give notice to the municipality. The notice shall state the substance of the application and shall set a time and place for the public hearing on such application. The notice shall contain a location map clearly indicating the area covered by the proposal including major streets, and a statement that interested parties may appear at the public hearing and be heard regarding the proposal. Such notice shall be given approximately fifteen (15) to thirty (30) calendar days prior to the date set for the first public hearing on an application for a development permit.

(3) **Posting.** The land subject to the application for development permit for a Class "A" conditional use shall be posted with a notice of the public hearing on a sign provided by the County at least fifteen (15) calendar days in advance of any public hearing. One (1) notice shall be posted for each one hundred (100) feet of frontage along a public street. Notice shall be setback no more than twenty five (25) feet from the street. All signs shall be erected in full view of the public on each street side of the land subject to the application. Where the land does not have frontage on a public street, signs shall be erected on the nearest street right-of-way with an attached notation indicating generally the direction and distance to the land subject to the application. If the change in land use is being requested by a public agency or the Board of County Commissioners and signs shall be erected on the nearest street right-of-way or at major intersections leading to and within the subject property. The notice shall contain a map indicating the boundaries of the subject property. The signs shall be removed by the applicant after the decision is rendered on the application. The failure of any such posted notice to remain in place after the notice has been posted shall not be deemed a failure to comply with this requirement, or be grounds to challenge the validity of any decision made by the Board of County Commissioners.

7. **Review and recommendation by Zoning Commission.** The Zoning Commission shall conduct a public hearing on the application for development permit for a Class "A" conditional use pursuant to the procedures in Sec. 5.1.E. At the public hearing, the Zoning Commission shall consider the application, the relevant support materials, the Development Review Committee certification, and public testimony given at the hearing. If at any time during the public hearing the Zoning Commission determines that the application is based upon incomplete, inaccurate information or

misstatements of fact, it may refer the application back to the Development Review Committee for further review and a revised staff report. After close of the public hearing, the Zoning Commission shall recommend to the Board of County Commissioners approval, approval with conditions, or disapproval of the application based upon the standards in Article 6 and Sec. 5.4.E.9.

8. **Public hearing before the Board of County Commissioners.**

   a. **Scheduling the hearing**. After the review and recommendation of the Zoning Commission, the Board of County Commissioners shall conduct a public hearing on the application pursuant to the procedures in Sec. 5.1.F.

   b. **Public hearing.** At the public hearing, the Board of County Commissioners shall consider the application, the relevant support materials, the Development Review Committee certification, the Zoning Commission recommendation, and public testimony given at the hearing. An application for a development permit for a class "A" conditional use which fails to receive required rezoning shall be decertified. If at any time during the public hearing the Board of County Commissioners determines that the application is based upon incomplete, or inaccurate information or misstatements of fact, it may refer the application back to the Development Review Committee for further review and a revised staff report, or to the Zoning Commission for revised recommendations.

   c. **Decision**. At the close of the public hearing, the Board of County Commissioners by not less than a majority of a quorum present shall approve, approve with conditions, or deny the application based on the standards in Secs. 5.4.E.9 and 5.4.E.10, and any standards specifically applicable to the use, as required in Art. 6, Zoning Districts, thereby adopting a resolution authorizing, authorizing with conditions or denying the proposed use. The resolution shall be filed with the Clerk of the Circuit Court.

9. **Standards applicable to all Class "A" conditional uses.** When considering an application for development permit for a Class "A" conditional use, the Board of County Commissioners shall consider the following factors. In no event, however, shall a Conditional Use Class "A" be approved which fails to meet any standard below. Failure to comply with any standard shall be deemed adverse to the public interest.

   a. **Consistent with Comprehensive Plan.** The proposed Class "A" conditional use is consistent with the purposes, goals, objectives and policies of the Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use;

   b. **Complies with supplementary use standards.** The proposed Class "A" conditional use complies with all relevant and appropriate portions of Sec. 6.6. Supplementary Regulations;

   c. **Compatibility.** The proposed Class "A" conditional use is compatible as defined in this Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development;

d. **Design minimizes adverse impact.** The design of the proposed Class "A" conditional use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands;

e. **Adequate public facilities.** The proposed Class "A" conditional use complies with Art. 11, Adequate Public Facility Standards;

f. **Design minimizes environmental impact.** The proposed Class "A" conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.

g. **Development patterns.** Whether and the extent to which the proposed development will result in logical, timely and orderly development patterns.

h. **Other relevant standards of Code.** The proposed Class "A" conditional use complies with all standards imposed on it by all other applicable provisions of this Code for use, layout, function, and general development characteristics.

i. **Consistency with neighborhood plans.** Whether and to what extent the proposed development is consistent with applicable neighborhood plans.

10. **Conditions.** The Development Review Committee and Zoning Commission may recommend, and the Board of County Commissioners may impose, such conditions in a development order for a Class "A" conditional use that are necessary to accomplish the purposes of the Comprehensive Plan and this Code to prevent or minimize adverse effects upon the public, the environment and neighborhoods, and to ensure compatibility, including, but not limited to limitations on function, size, bulk and location of improvements and buildings, standards for landscaping, buffering, lighting, adequate ingress and egress, conveyance of property, on-site or off-site improvements, duration of the permit, and hours of operation. Conditions shall be included if conventional standards are inadequate to protect the public interest, surrounding land uses or if additional improvements are needed to facilitate a more graceful transition between different uses. Conditions are not intended to restate express code provisions. An effort shall be made to minimize conditions which restate code requirements, unless the requirement is necessary to mitigate impact generated by the project. Any code provision which is expressly restated as a condition of approval shall be eligible for a variance unless otherwise specified in the condition. Fixed time periods may be set for compliance with conditions and shall be governed by Sec. 5.8 of this Article.

11. **Effect of issuance of a development order for Class "A" conditional use.**

a. **General.** If used, issuance of a development order for a Class "A" conditional use shall be deemed to authorize only the particular site configuration, layout and level of impacts which were approved pursuant to this Code unless the approval is abandoned, as provided in Section 5.1.N, above. Permitted uses may occur in conjunction with or in place of the Class "A" conditional use. For purposes of transfer, a development order for a Class "A" conditional use shall run with the land.

b. Time limitations.

(1) **Commencement.** Development shall commence as provided for in Table 5.8-1 of this Code;

(2) **Phasing.** Phased projects must include twenty (20) percent of the project's land area in the development of each phase unless a phasing schedule is approved by the Board of County Commissioners.

(3) **Subsequent development order(s).** Development of the Class "A" conditional use shall not be carried out until the applicant has secured all other development orders required by this Code. A development order for a Class "A" conditional use shall not ensure that the development approved as a Class "A" conditional use shall receive subsequent approval for other applications for development permits unless the relevant and applicable portions of this Code are met.

12. Appeal.

Any person aggrieved by a decision of the Board of County Commissioners on an application for development permit for a Class "A" conditional use, shall apply for judicial relief by the filing of a Petition for Writ of Certiorari in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, within thirty (30) calendar days of the date the resolution is filed with the Clerk of the Circuit Court, in accordance with the procedure and within the time provided by the Florida Rules of Civil Procedure and the Florida Rules of Appellate Procedure.

13. Minor deviations. Minor deviations from a development order for a Class "A" conditional use shall be approved by the Development Review Committee. Deviations in excess of the limits in this section shall be subject to Board review, action, and approval, approved with conditions, or denied by the Board. Minor deviations that are authorized are those that allow minor redesign or change to a project that would not substantially change or increase impacts originally anticipated. Minor deviations are permitted in order to refine the design and function of a project. Minor deviations shall be limited to the following:

a. The relocation of no more than twenty-five (25) percent of the total approved square footage or other area indicated as being covered by structures to portions of the site not previously covered, as long as it complies with the standards of this Code;

b. Redesign or change in use, where there is no increase in traffic impact;

c. Redesign, where there is an increase in traffic impact, as long as the modification complies with Sec. 15.1, Traffic Performance Standards, and Art. 11, Adequate Public Facility Standards;

d. The reduction or relocation of areas set aside for community open space, or recreation provided that such changes do not result in a substantial change in the amount, boundary configuration, or character of open space or recreation provided;

e. An increase of no more than five (5) percent in the total floor area of any building, provided that no increase shall exceed one thousand (1,000) square feet as long as it complies with the requirements of this Code, including Article 11, Adequate Public Facility Standards;

f. An overall increase of no more than five (5) percent in the total square footage covered by any structure as long as it complies with the requirements of this Code, including Art. 11, Adequate Public Facility Standards;

g. An overall increase of not more than five (5) percent of the height of any structure as long as it complies with the requirements of this Code, including Art. 11, Adequate Public Facility Standards; or

h. Relocation of access points.

i. Redesignation of project phasing as approved in the development order provided the redesignation meets minimum requirements of the Adequate Public Facilities Ordinance and general intent of the development order.

14. **Development Order Amendment to Class B Conditional Use.** A development order for a Class B Conditional Use may be amended, extended, varied or altered only pursuant to the standards and procedures established for its original approval, or as otherwise set forth in this section. Before any conditional use is amended, extended, varied or altered, the applicant shall demonstrate and the Board of County Commissioners shall find that a change of circumstances or conditions has occurred which make it necessary to amend, extend, vary or alter the conditional use.

[Ord. No. 93-4] [Ord. No. 94-23] [Ord. No. 95-24] [Ord. No. 95-38]

F. Class "B" conditional uses.

1. **Authorized Class "B" conditional use.** Only those uses that are authorized as Class "B" conditional uses in Table 6.4-1, Use Regulations Schedule, may be approved as Class "B" conditional uses. The designation of a use as a Class "B" conditional use in a district in Table 6.4-1, Use Regulations Schedule, does not constitute an authorization of such use or an assurance that such use will be approved under this Code. Rather, each proposed Class "B" conditional use shall be evaluated by the Development Review Committee and the Zoning Commission for compliance with the standards and conditions set forth in this section and the applicable district.

2. **Submission of application.** An application for a development permit for a Class "B" conditional use shall be submitted to the Zoning Director along with a nonrefundable application fee that is established by the Board of County Commissioners from time to time to defray the actual cost of processing the application.

3. **Contents of application.** The application shall be submitted in a form established by the Zoning Director and made available to the public.

4. **Determination of sufficiency.** The Zoning Director shall determine if the application is sufficient and includes data necessary to evaluate the application.

a. If it is determined that the application is not sufficient, notice shall be delivered to the applicant specifying the deficiencies. The Zoning Director shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within twenty (20) working days, the application shall be considered withdrawn.

b. If or when the application is determined sufficient, the Zoning Director shall place the application on the agenda of the next available hearing consistent with the Zoning Director's calendar.

5. **Review and certification by DRC.**

a. Within three (3) working days before the Development Review Committee, the staff of the Development Review Committee shall provide the applicant with a draft list of issues, if any. The DRC shall be convened pursuant to the Zoning Director's calendar to review the application and determine whether it should be certified. An application shall not be certified unless it complies with the minimum standards for that use pursuant to Article 6 and Sec. 5.4.F.8. The decision by the Planning Director on whether to issue an Adequate Public Facilities Determination, a Certificate of Concurrency Reservation, a Certificate of Concurrency Reservation with conditions, or a Conditional Certificate of Concurrency Reservation, whichever is appropriate, pursuant to Art. 11, Adequate Public Facility Standards, shall be issued prior to the Development Review Committee's decision on whether to certify the application. If a decision on adequate public facilities shall be delayed pursuant to the procedures and standards of Art. 11, Adequate Public Facilities Standards, the time for completion of the Development Review Committee's decision shall be delayed so that the Planning Director's decision pursuant to Art. 11, Adequate Public Facility Standards, is made prior to the Development Review Committee's decision on whether to certify the application. An application shall not be forwarded to the Zoning Commission for review until it has been certified by the Development Review Committee.

b. At the Development Review Committee meeting, the Zoning Director shall advise the applicant of the Development Review Committee's decision and any steps necessary to comply with this Code and mail a copy of the decision to the applicant within three (3) working days of the day of the Development Review Committee's decision. Any applicant shall be provided one (1) working day after DRC to satisfy any requirement without returning to a subsequent DRC meeting. Continuance shall be governed by Section 5.1 of this Code.

c. If the application is certified, the public hearing on the application shall then be scheduled for the first available regularly scheduled Zoning Commission meeting by the time the public notice requirements can be satisfied, or such time as is mutually agreed upon between the applicant and the Zoning Director.

d. An appeal of a decision not to certify an application for a Class "B" conditional use may be made to the Zoning Commission using the form and procedures established by the Zoning Director.

6. **Public hearings.** The Zoning Commission shall hold one (1) public hearing on an application for development permit for a Class "B" conditional use.

a. Notice. Notice of the public hearing shall be made pursuant to the following standards.

(1) **Publication**. Public notice shall be published in a newspaper of general circulation in Palm Beach County, at least ten (10) calendar days in advance of the Zoning Commission public hearing on an application for development permit for a Class "B" conditional use. The notice shall be published in accordance with Sec. 125.66(2) of the Fla. Stat.

(2) **Mailing**. A courtesy notice shall also be provided by certified mail, return receipt requested, to all owners of land within three hundred (300) feet of the periphery of the land subject to the application, whose names and addresses are known by reference to the latest published ad valorem tax records of the County property appraiser, except that when an owner of real property consists of a condominium, notice shall be given to the condominium association and all real property owners living within three hundred (300) feet. If the area within three hundred (300) feet is owned by the applicant or partner in interest, then the three hundred (300) foot notification boundary shall be extended from these parcels. All property owners associations and cooperatives within this area as well as all counties and municipalities within one mile of the area shall also be notified. Areas that a municipality has identified as a future annexation area shall also give notice to the municipality. The notice shall state the substance of the application and shall set a time and place for the public hearing on such application. The notice shall contain a location map clearly indicating the area covered by the proposal including major streets, and a statement that interested parties may appear at the public hearing and be heard regarding the proposal. Such notice shall be given approximately fifteen (15) to thirty (30) calendar days prior to the date set for the first public hearing on an application for a development permit.

(3) **Posting.** The land subject to the application for development permit for a Class "B" conditional use shall be posted with a notice of the public hearing on a sign provided by the County at least fifteen (15) calendar days in advance of any public hearing. One (1) notice shall be posted for each one hundred (100) feet of frontage along a public street. Notice shall be setback no more than twenty five (25) feet from the street. All signs shall be erected in full view of the public on each street side of the land subject to the application. Where the land does not have frontage on a public street, signs shall be erected on the nearest street right-of-way with an attached notation indicating generally the direction and distance to the land subject to the application. If the change in land use is being requested by a public agency or the Board of County Commissioners and signs shall be erected on the nearest street right-of-way or at major intersections leading to and within the subject property. The notice shall contain a map indicating the boundaries of the subject property. The signs shall be removed by the applicant after the decision is rendered on the application. The failure of any such posted notice to remain in place after the notice has been posted shall not be deemed a failure to comply with this requirement, or be grounds to challenge the validity of any decision made by the Board of County Commissioners.

7. **Public hearing before the Zoning Commission.**

   a. **Scheduling the hearing.** The Zoning Commission shall conduct a public hearing on a Class "B" Conditional use pursuant to the procedures in Sec. 5.1.F.

   b. **Public hearing.** At the public hearing, the Zoning Commission shall consider the application, the relevant support materials, the Development Review Committee certification, and the public testimony given at the hearing. An application for a development permit for a class "B" conditional use which fails to receive required rezoning shall be decertified. If at any time during the public hearing the Zoning Commission determines the application is based upon incomplete, inaccurate information or misstatements of fact, it may refer the application back to the Development Review Committee for further review and a staff report.

   c. **Decision.** At the close of the public hearing, the Zoning Commission shall by not less than a majority of a quorum present approve, approve with conditions, or deny the application based on the standards in Sec. 5.4.F.8, and any standards specifically applicable to the use as required in Art. 6, Zoning Districts, thereby adopting a resolution authorizing, authorizing with conditions, or denying the proposed use. The resolution shall be filed with the Clerk of the Circuit Court.

8. **Standards applicable to all Class "B" conditional use.** When considering an application for development permit for a Class "B" conditional use, the Zoning Commission shall consider the following factors. In no event, however, shall a Conditional Use Class "B" be approved which fails to meet any standard below. Failure to comply with any standard shall be deemed adverse to the public interest.

   a. **Consistent with Comprehensive Plan.** The proposed Class "B" conditional use is consistent with the purposes, goals, objectives and policies of the Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use;

   b. **Complies with supplementary use standards.** The proposed Class "B" conditional use complies with all relevant and appropriate portions of Article 6, Supplementary Use Standards;

   c. **Compatibility.** The proposed Class "B" conditional use is compatible as defined in this Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development;

   d. **Design minimizes adverse impact.** The design of the proposed Class "B" conditional use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands;

   e. **Adequate public facilities.** The proposed Class "B" conditional use complies with Art. 11, Adequate Public Facility Standards;

   f. **Design minimizes environmental impact.** The proposed Class "B" conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.

g. **Development patterns.** Whether and the extent to which the proposed development will result in logical, timely and orderly development patterns.

h. **Other relevant standards of Code.** The proposed Class "B" conditional use complies with all standards imposed on it by all other applicable provisions of this Code for use, layout, function, and general development characteristics.

i. **Consistency with neighborhood plans.** Whether and to what extent the proposed development is consistent with applicable neighborhood plans.

9. **Conditions.** The Development Review Committee may recommend and the Zoning Commission may impose, such conditions in a development order for a Class "B" conditional use that are necessary to accomplish the purposes of the Comprehensive Plan and this Code to prevent or minimize adverse effects upon the public, the environment, and the neighborhood, and to ensure compatibility, including, but not limited to limitations on function, size, bulk and location, standards for landscaping, buffering, lighting, adequate ingress and egress, conveyance of property, on-site or off-site improvements, duration, and hours of operation. Conditions shall be included if conventional standards are inadequate to protect the public interest, surrounding land uses or if additional improvements are needed to facilitate a more graceful transition between different uses. Conditions are not intended to restate express code provisions. An effort shall be made to minimize conditions which restate code requirements, unless the requirement is necessary to mitigate impact generated by the project. Any code provision which is expressly restated as a condition of approval shall be eligible for a variance unless otherwise specified in the condition. Fixed time periods may be set for compliance with conditions and shall be governed by Section 5.8 of this Article.

10. **Appeal.**

a. **General**. The applicant, the Executive Director of PZB, the BCC member representing the district in which the use is to be located, and owners of land, homeowners' associations or cooperatives within three hundred (300) feet of the proposed Class "B" Conditional use who have opposed it at a public hearing may appeal any decision of the Zoning Commission on an application for development permit for a Class "B" conditional use to the Board of County Commissioners, by filing an appeal petition with the Zoning Director within ten (10) working days of the decision.

b. **Procedure.** The Board of County Commissioners shall consider the appeal petition within forty-five (45) working days of its filing. The Zoning Director shall notify the petitioner, the applicant (if the petitioner is not the applicant), and any affected person, within ten (10) working days of the hearing and invite them to attend the hearing. At the hearing, the Board of County Commissioners shall provide the petitioner, the applicant (if the applicant is not the petitioner), any affected person, and County staff an opportunity to present arguments and testimony. In making its decision, the Board of County Commissioners shall consider only the record before the Zoning Commission at the time of the decision, and the testimony of the petitioner, the applicant (if the petitioner is not the applicant), any affected person, and County staff. The notice and hearing provisions for a class "A" conditional use shall govern the appeal.

c. **Standards.** The Board of County Commissioners shall reverse the decision of the Zoning Commission only if there is substantial competent evidence in the record that the decision failed to comply with the standards of Sec. 5.4.F.8.

11. **Effect of development order for a Class "B" conditional use.**

a. **General.** If used, issuance of a development order for a Class "B" conditional use shall be deemed to authorize only the particular site configuration and layout and level of impacts which were approved pursuant to this Code unless the approval is abandoned, as provided in Section 5.1.N, above. Permitted uses may occur in conjunction with or in place of the Class "B" conditional use. For the purposes of transfer, a development order for a Class "B" conditional use shall run with the land.

b. **Time limitation.**

(1) Development shall commence as provided for in Table 5.8-1 of this Code;
(2) Phased projects must include twenty (20) percent of the project's land area in the development of each phase unless a phasing schedule is approved by the Zoning Commission.

c. **Subsequent development order(s).** Development of the use shall not be carried out until the applicant has secured all other development orders required by this Code, and regional, state and federal approvals, if applicable. A development order for a Class "B" conditional use shall not ensure that the development approved as a Class "B" conditional use shall receive subsequent approval for other applications for development permits unless the relevant and applicable portions of the Code are met.

12. **Exhaustion of non-judicial remedies and judicial review.**

a. **Exhaustion of non-judicial remedies.** Any person aggrieved by a decision of the Zoning Commission on an application for development permit for a Class "B" conditional use shall appeal the decision to the Board of County Commissioners as provided by this Code prior to applying to the courts for judicial relief.

b. **Judicial relief; petition for writ of certiorari.** After appeal of a development order for a class "B" conditional use to the Board of County Commissioners, as provided by this Code, any person aggrieved by a decision of the Zoning Commission on an application for development permit for a Class "B" conditional use, may apply for judicial relief by the filing of a Petition for Writ of Certiorari in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, in accordance with the procedure and within the time provided by the Florida Rules of Civil Procedure and the Florida Rules of Appellate Procedure.

13. **Minor deviations.** Minor deviations from a development order for a Class "B" conditional use shall be approved by the Development Review Committee. Deviations in excess of the limits of this section shall be approved, approved with conditions, or denied by the Board of County Commissioners. Minor deviations that are authorized are those that appear necessary in light of considerations not reasonably anticipated during the initial approval process. Minor deviations shall be limited to the following:

a. The relocation of no more than twenty-five (25) percent of the total approved square footage or other area indicated as being covered by structures to portions of the site not previously covered, as long as it complies with the standards of this Code;

b. Redesign or change in use, where there is no increase in traffic impact;

c. Redesign, where there is increase in traffic impact, as long as the modification complies with Sec. 15.1, Traffic Performance Standards, and Art. 11, Adequate Public Facility Standards.

d. The reduction or relocation of areas set aside for community open space or recreation, provided that such changes do not result in a substantial change in the amount, boundary configuration, or character of open space or recreation provided;

e. An increase of no more than five (5) percent in the total floor area of a non-residential building, provided that no increase shall exceed one thousand (1,000) square feet and as long as it complies with the standards of this Code, including Article 11, Adequate Public Facility Standards;

f. An overall increase of no more than five (5) percent in the total square footage covered by any non-residential structure as long as it complies with the standards of this Code, including Article 11, Adequate Public Facility Standards;

g. An overall increase of not more than five (5) percent of the height of any structure as long as it complies with the standards of this Code, including Article 11, Adequate Public Facility Standards; or

h. Relocation of access points.

i. Redesignation of project phasing as approved in the development order provided the redesignation meets minimum requirements of the Adequate Public Facilities Ordinance and general intent of the development order.

G. **Development Order Amendment to Class B Conditional Use.** A development order for a Class B Conditional Use may be amended, extended, varied or altered only pursuant to the standards and procedures established for its original approval, or as otherwise set forth in this section. Before any conditional use is amended, extended, varied or altered, the applicant shall demonstrate and the Board of County Commissioners shall find that a change of circumstances or conditions has occurred which make it necessary to amend, extend, vary or alter the conditional use.

[Ord. No. 93-4]; [Ord. No. 94-23]
[Ord. No. 93-4; February 2, 1993] [Ord. No. 94-23; October 4, 1994]

SEC. 5.5 SPECIAL PERMIT USES.

A. **Purpose.** Special permit uses are those uses that are generally compatible with the other uses permitted in a district, but that require individual review of their location, design, configuration and intensity and density of use, buildings and structures, and may require the imposition of conditions pertinent thereto in order to ensure the appropriateness of the use at a particular location. These uses are generally temporary for a specified, fixed period of time.

B. **Authority.** The Zoning Director, in accordance with the procedures, standards and limitations of this section, shall approve, approve with conditions, or deny an application for a development permit for a special permit use after review by applicable agencies.

C. **Authorized special permit use.** Only those uses that are authorized as special permit uses in Table 6.4-1, Use Regulations Schedule, shall be approved as special permit uses. The designation of a use as a special permit use in a district as shown in Table 6.4-1, Use Regulations Schedule, does not constitute an authorization of such use or an assurance that such use will be approved under this Code. Rather, each proposed special permit use shall be evaluated by the Zoning Director for compliance with the standards and conditions set forth in this section and the applicable district.

D. **Initiation.** An application for a development permit for a special permit use shall be submitted by the owner, or any other person having a written contractual interest in the land for which the special permit use is proposed, or their authorized agent.

E. **Procedure.**

1. **Submission of application.** An application for a development permit for a special permit use shall be submitted to the Zoning Director along with a nonrefundable application fee that is established by the Board of County Commissioners from time to time to defray the actual cost of processing the application.

2. **Contents of application.** The application shall be submitted in a form established by the Zoning Director and made available to the public. An occupational license must be obtained and all permits must be posted on the site prior to commencement of operation.

   A survey of the property must be submitted showing:

   (a) Location of existing and proposed signage;
   (b) Area square footage;
   (c) Location, setback, and footprint of tent, if applicable;
   (d) Required setbacks for products (trees, etc.)and
   (e) Location where permit will be posted.

3. **Determination of sufficiency.** The Zoning Director shall determine if the application is sufficient and includes data necessary to evaluate the application. If it is determined that the application is not sufficient, notice shall be sent to the applicant specifying the deficiencies. The Zoning Director shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within ten (10) working days, the application shall be considered withdrawn.

4. **Decision by Zoning Director.** Within ten (10) working days after the application is determined sufficient, the Zoning Director shall review the application and approve, approve with conditions, or deny the application based upon the standards in Sec. 5.5.E.5.

5. **Standards applicable to all special permit uses.** When considering an application for development permit for a special permit use, the Zoning Director shall consider whether and the extent to which:

   a. **Consistency with Comprehensive Plan.** The proposed special permit use is consistent with the purposes, goals, objectives and policies of the Comprehensive Plan;

   b. **Complies with supplementary use standards.** The proposed special permit use complies with all relevant and appropriate portions of Sec. 6.6, Supplementary Regulations;

   c. **Compatibility.** The proposed special permit use is consistent with the character of the immediate vicinity of the land proposed for development;

   d. **Design minimum adverse impact.** The design of the proposed special permit use minimizes adverse effects, including visual impact, of the proposed use on adjacent lands;

   e. **Duration.** The length of time the proposed use will occur will minimize impacts.

   f. **Health and sanitation.** The PBCPHU has determined the propose use complies with all relevant standards related to health and sanitation.

   g. **Traffic considerations.** The County Engineer has determined the proposed use complies with all relevant transportation standards.

   h. **Other relevant standards of Code.** The proposed special permit use complies with all additional standards imposed on it by all other applicable provisions of this Code.

   i. **Compliance with adequate public facilities ordinance**. Permanent structures must comply with Article 11, Adequate Public Facilities Standards.

6. **Conditions.** The Zoning Director shall have the authority to impose such conditions in a development order for a special permit use that are necessary to accomplish the purpose of this section, this Code, and the Comprehensive Plan to prevent or minimize adverse effects upon the public and the neighborhood, including, but not limited to limitations on size, bulk and locations, standards for landscaping, buffering, lighting, adequate ingress, egress and other on-site improvements, duration, and hours of operation. Appeal of staff imposed conditions or a denial of the special permit shall be made to the Board of Adjustment after submitting the required fee and by using the form and procedures established by the Zoning Director.

7. **Mailing decision to applicant.** Within three (3) working days, the Zoning Director shall mail a copy of the Zoning Director's decision on the application to the applicant.

8. **Special permit fees.**

   a. The Special Permit fee is adopted to supplement the cost of issuing Special Permits, performing inspections and reviewing vendor-stand locations.

   b. No Special Permit shall be issued until all fees have been paid.

   c. The fee shall be as established by the Palm Beach County Planning, Zoning & Building Department fee schedule.

9. **Renewal of Special Permit.** All special permits shall be renewed in accordance with the applicable permit type as required in Sec. 6.4.D.

   For special permits required to be renewed annually, the special permit shall be renewed on or before the date the original permit was issued in accordance with the following procedures:

   (1) **Procedure.**
   - (a) The department may mail a courtesy notice and renewal form to the applicant 30 days prior to the expiration of the special permit.
   - (b) The applicant must submit payment along with the executed renewal form.
   - (c) During review of the request to renew the special permit, or as otherwise provided in this code, the department reserves the right to inspect the property to ensure compliance with this subsection.
   - (d) If the department finds the renewal applicant and use of the property in compliance, a renewal permit shall be mailed to the applicant.

     If the department finds non-compliance with the special permit or standards herein, the applicant shall be given a maximum of sixty (60) days to comply or the special permit shall become null and void. If the applicant fails to renew the special permit within 60 days of expiration, it shall be considered null and void.

   (2) **Fee.** Renewal fees for the special permit shall be required, annually, in accordance with the department's fee schedule.

[Ord. No. 93-4] [Ord. No. 95-8] [Ord. No. 95-24]

F. Exhaustion of non-judicial remedies and judicial review.

1. **Exhaustion of non-judicial remedies.** Any person aggrieved by a decision of the Zoning Director on an application for development permit for a special permit use shall appeal to the Board of Adjustment using the form and procedure established by the Zoning Director prior to applying to the courts for judicial relief.

2. **Judicial relief; petition for writ of certiorari.** After appeal to the Board of Adjustment, any person aggrieved by a decision of the Zoning Director on an application for development permit for a special permit use, may apply for judicial relief by the filing of a Petition for Writ of Certiorari in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, in accordance with the procedure and within the time provided by the Florida Rules of Civil Procedure and the Florida Rules of Appellate Procedure. If the challenge involves the consistency of the development order with the Comprehensive Plan, judicial relief shall be by the filing of a verified complaint with Palm Beach County pursuant to Sec. 163.3215, Fla. Stat.

3. **Judicial relief for applications for adult entertainment establishments.** An aggrieved party has the right to immediately appeal a denial of application sufficiency of a special permit, denial of a special permit or revocation or suspension of a permit for an adult entertainment establishment by filing in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, an action within 30 days of the date of the denial.

[Ord. No. 93-4]
[Ord. No. 93-4; February 2, 1993][Ord. No. 94-23; October 4, 1994] [Ord. No. 95-8; March 21, 1995] [Ord. No. 95-24; July 11, 1995]

SEC. 5.6 SITE PLAN OR FINAL SUBDIVISION PLAN.

A. Purpose. A final Site Plan or Final Subdivision Plan review shall be required in accordance with the provisions of this section in order to ensure that the proposed development complies with the ULDC and to otherwise protect the public health, safety and general welfare of the citizens of Palm Beach County.

B. Applicability.

1. **General.** A Site Plan shall not be required when a Final Subdivision Plan is required for the same project, unless there are amendments to the development order, at which time the applicable provisions of this section shall apply. Submittal requirements for final Subdivision Plans shall be augmented to include graphic tabular information.

   A boundary plat may be required in addition to a Site Plan for commercial development that does not create any outparcel(s). All non-subdivision projects shall be reviewed for the requirement to submit a boundary plat when there is a possibility the proposed development will include any of the following: multiple access, preservation or conservation areas, water management tracts, shared parking, shared stormwater facilities, or other infrastructure. The County Engineer shall determine at preapplication conference if recordation of a boundary plat shall be required, pursuant to the procedures of Article 8, prior to the issuance of a building permit.

2. **Development requiring a Development Review Committee approved Site Plan.** All approved conditional or planned development district uses, all uses designated with a "D" in Table 6-4.1, all development in any overlay, CN, or CLO zone, all new construction that creates, meets or exceeds the thresholds in Table 6.4-2, any amendment to any previously approved site plan and any class "B" nonconforming use governed by Sec. 13.2.B.2.b. shall be required to obtain a development order for a site plan prior to approval for a development order for a building permit.

3. **Development requiring a Development Review Committee approved final Subdivision Plan.** All subdivision of land for which a plat waiver has not been granted pursuant to Article 8 shall be required to receive a development order for a Final Subdivision Plan prior to submission to the Land Development Division for Plat or other approval required by Article 8 of this Code and pursuant to the procedures and standards of this section.

[Ord. No. 93-4]

C. Preapplication conference. A preapplication conference is optional pursuant to Sec. 5.1.C, prior to the submission of the initial application.

[Ord. No. 93-4]

D. Procedures.

1. **Initiation.** An application for a development permit for Site Plan or Final Subdivision Plan may only be submitted by the owner, or any other person having a contractual interest in the land, or their authorized agent.

2. **Submission of application.** An application for development permit for a Site Plan or Final Subdivision Plan shall be submitted to the Zoning Director along with a nonrefundable application fee that is established by the Board of County Commissioners from time to time to defray the actual cost of processing the application.

3. **Contents of application.** The application shall be submitted in a form established by the Zoning Director and made available to the public.

4. **Determination of sufficiency.** The Zoning Director shall determine if the application is sufficient and includes data necessary to evaluate the application.

   a. If it is determined that the application is not sufficient, notice shall be served on the applicant specifying the deficiencies. The Zoning Director shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within twenty (20) working days, the application shall be considered withdrawn.

   b. If or when the application is determined sufficient, the Zoning Director shall place on the next available hearing consistent with the Zoning Director's calendar.

5. **Action by DRC.** At least three (3) working days before the Development Review Committee meeting, the staff of the Development Review Committee shall provide the applicant with a list of issues, if any. The DRC shall be convened pursuant to the Zoning Director's calendar to review the application at a meeting and approve, approve with conditions or deny the application based on the standards in Sec. 5.6.D.6. No Site Plan or Final Subdivision Plan shall be certified until it meets all certification standards. Any applicant shall be provided with one (1) working day to satisfy any certification requirements without returning to the subsequent Development Review Committee meeting. If the applicant returns to a second or more DRC meeting an additional fee as provided for by law may be charged. The decision of the Planning Director on whether to issue an Adequate Public Facilities Determination, a Certificate of Concurrency Reservation, a Certificate of Concurrency Reservation with conditions, or a Conditional Certificate of Concurrency Reservation, whichever is appropriate, pursuant to Article 11, Adequate Public Facility Standards, shall be issued prior to the Development Review Committee's decision on the application for development permit for Site Plan or Final Subdivision Plan. If an application for development permit is delayed pursuant to the procedures and standards of Art. 11, Adequate Public Facility Standards, the time for the Development Review Committee's recommendation shall be delayed so that the Planning Director's decision pursuant to Art. 11, Adequate Public Facility Standards, can be issued prior to the decision on the application for development permit for Site Plan or Final Subdivision Plan. At the Development Review Committee meeting, the Zoning Director shall advise the applicant of steps necessary to comply with this Code and mail a copy of the decision to the applicant within three (3) working days of the day of the Development Review Committee's decision.

6. **Certification Standards.** A Site Plan or Final Subdivision Plan shall comply with all of the following standards:

   a. **Consistency with Comprehensive Plan.** The Site Plan or Final Subdivision Plan shall be consistent with the purposes, goals, objectives and policies of the Comprehensive Plan.

   b. **Adequate public facility standards.** The Site Plan or Final Subdivision Plan shall comply with Art. 11, Adequate Public Facility Standards.

   c. **Environmental standards.** The Site Plan or Final Subdivision Plan shall comply with Art. 9, Environmental Standards.

   d. **Zoning District, Use, Property development and Supplementary regulations.** The final site plan or final subdivision plan shall comply with Article 6 of the ULDC.

   e. **Site Development Standards.** The Site Plan or Final Subdivision Plan shall comply with Art. 7, Site Development Standards.

   f. **Subdivision.** The Final Subdivision Plan shall comply with Sec. 8.12, Final Subdivision Plan, and all other relevant portions of Art. 8, Subdivision.

   g. **Consistency with neighborhood plans.** The Site Plan or Final Subdivision Plan shall be consistent with applicable neighborhood plans.

h. Other relevant standards of this Code. The Site Plan or Final Subdivision Plan shall comply with the County's health, fire and building standards and all other relevant and applicable provisions of this Code.

7. **Conditions.** The Development Review Committee shall have the authority to impose conditions in a development order for a Site Plan or Final Subdivision Plan specifically as follows:

   a. Those conditions that are necessary to accomplish the provisions of this Code and to assure compatibility of the proposed development with surrounding land uses. such conditions shall be limited to execution of unit of control or unity of title, location of uses on the site to minimize adverse off-site impacts and ensure on-site safety and compliance with Code requirements. Conditions shall not restrict land uses otherwise permitted by the Code, or require payment of any fees not otherwise required. Further, conditions may be imposed to provide road construction required for the project to meet the Traffic Performance Standards. Site related conditions such as drainage improvements, turn lanes and signalization may be imposed. The Development Review Committee (DRC) may impose conditions to the approval of agricultural uses in the Urban Services Area, to reduce negative impacts on surrounding properties, including but not limited to: controlling objectionable odors; fencing; sound limitations; inspections; reporting or monitoring; preservation areas; mitigation; and/or limits of operation. Conditions shall be reasonable, not be contrary to law, limited to on-site impacts, expect for off-site public road improvements or conveyances specifically attributable to the project's impact. Conditions shall not amend Board imposed conditions, affect previously approved conditions, or exceed this Code. For modifications or additions to previously approved development orders, conditions shall only be imposed to address the specific impacts of the new use or development;

   b. Those conditions that allow the landowner to proceed to the subsequent stage of development review, providing assurance that the condition will be met prior to issuance of the next development order; and

   c. Conditions where the Code expressly allows terms of the Code to be waived, provided the proposed development meets those specific requirements for the waiver.

8. **Appeals.** Appeals of decisions of the Development Review Committee may be made to the Development Review Appeals Board after submitting the required fee and using the form and procedures established by the Zoning Director. The Development Review Appeals Board shall meet within thirty (30) days of receipt of the appeal.

9. **Mailing of decision.** The Zoning Director shall mail a copy of the Development Review Committee's decision to the applicant, within three (3) working days of the decision.

10. **Effect of development order for Site Plan or Final Subdivision Plan.**

    a. **General.** If used, issuance of a development order for a site plan or subdivision plan shall be deemed to authorize only the particular site configuration, layout and level of impacts which were approved pursuant to this Code unless the use is abandoned as provided in Section 5.1.N, above. Permitted uses may occur in conjunction with or in place of the approved use. A development order for a site plan or a subdivision plan shall run with the land. The certified site plan or subdivision plan shall serve as the project's development order. Approval of uses subject to DRC review and approval only shall be reflected on the official Zoning Map with a notation.

    b. **Subsequent development orders.** Issuance of a development order for a Final Subdivision Plan shall be deemed to authorize the County Engineer to accept an application for technical compliance approval required pursuant to Art. 8, Subdivision. Issuance of a development order for a Site Plan shall be deemed to authorize the Building Director to approve an application for a building permit if other relevant portions of this Code and the Building Code are complied with by the application.

11. **Site Plan or Final Subdivision Plan general time limitation.** Unless otherwise specified in the development order for a class "A" or class "B" conditional use, or in the development order for a planned development district, a development order for a site plan or final subdivision plan shall be subject to the time limitations of Table 5.8-1 of this Code.

12. **Minor deviations.** Minor corrections may be made from the development order for a site plan or final subdivision plan upon written approval of the Zoning Director or the Director of Land Development, as appropriate. Minor corrections or changes not significant enough to warrant Development Review Committee approval, require administrative approval to ensure that plans are updated and distributed to appropriate agencies. No changes or corrections may be made which contradict a Board imposed condition. Upon application of a letter explaining the need for corrections and payment of the fee established by the adopted fee schedule, minor corrections to a site plan or subdivision plan may be made. Minor corrections include but are not limited to: a change in sign location, minor modifications to parking areas (such as the relocation of a handicapped parking space), relocation of terminal islands to accommodate trees or utility lines, addition of phase lines that correspond to proposed plat and or building construction and which are unrelated to traffic performance requirements, reduction in building footprint size, addition of small canopies, removal of excess parking for additional open space (i.e., not required by this Code), minor revisions to lot lines to be consistent with a recorded plat, temporary sales and construction trailers, and satellite dish location.

13. **Amendments to development order for Site Plan or Final Subdivision Plan.** Except as provided above, a development order for a Site Plan or Final Subdivision Plan may be amended only pursuant to the procedures and standards established for its original approval.

[Ord. No. 93-4]; [Ord. No. 95-8]

E. **Exhaustion of non-judicial remedies and judicial review.**

a. **Exhaustion of non-judicial remedies.** Any person aggrieved by a decision of the Development Review Committee on an application for development permit for a Site Plan or Final Subdivision Plan shall appeal to the Development Review Appeals Board as provided by this Code prior to applying to the courts for judicial relief.

b. **Judicial relief; petition for writ of certiorari.** After appeal to the Development Review Appeals Board, as provided by this Code, any person aggrieved by a decision of the Development Review Committee on an application for development permit for a Site Plan or Final Subdivision Plan, may apply for judicial relief by the filing of a Petition for Writ of Certiorari in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, in accordance with the procedure and within the time provided by the Florida Rules of Civil Procedure and the Florida Rules of Appellate Procedure. If the challenge involves the consistency of the development order with the Comprehensive Plan, judicial relief shall be by the filing of a verified complaint with Palm Beach County pursuant to Sec. 163.3215, Fla. Stat.

[Ord. No. 93-4; February 2, 1993] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-8; March 21, 1995]

SEC. 5.7 VARIANCES AND APPEAL OF ADMINISTRATIVE DECISIONS.

A. **Definition and Purpose.** A variance is a deviation from certain standards of this Code that would not be contrary to the public interest when owing to special circumstances or conditions peculiar to the property, the literal enforcement of this Code would result in undue and unnecessary hardship.

[Ord. No. 95-8]

B. **Authority.**

1. The Board of Adjustment, in accordance with the procedures, standards and limitations of this section shall approve, approve with conditions, or deny an application for development permit for a variance, after recommendation by the Zoning Director, or County Engineer, whichever is appropriate. The Board of Adjustment is granted the authority to hear and decide on variances only to Art. 6 (except for Sec. 6.2, District Purpose and Intent and Table 6.4-1 Use Regulation Schedule), Art. 7, Site Development Standards including Type IA and IB excavations (except for Sec. 7.6, Type II and Type III Excavations; Sec. 15.1, Traffic Performance Standards, and Secs. 16.1 and 16.2, the Environmental Control Rule I and II); and Art. 8, Subdivision, Platting, and Required Improvements.

2. The Board of Adjustment is not authorized to grant a variance to permit a use not permitted under the terms of this code in the zoning district involved, or any use expressly prohibited by the terms of this code in the said zoning district or from a threshold requirement that determines a specified review process.

3. Unless otherwise specified, the Board of Adjustment shall hear and decide appeals from interpretation or decisions of the Zoning Director or the County Engineer regarding provisions of this Code pursuant to the procedures and standards in Article 2 of this Code.

   a. In exercising its powers, the board of adjustment may, in conformity with the provisions of this Code, reverse or affirm, wholly or partly, or may modify the decision or determination made by the Zoning Director or the County Engineer pursuant to this Code, and make such order, recommendation, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

   b. In making its decision, the interpretation of the Zoning Director or County Engineer shall be presumed to be correct and the applicant shall have the burden to demonstrate the error.

4. In no case shall the Board of Adjustment grant a permit to establish or re-establish a use prohibited in the district.

[Ord. No. 93-4]; [Ord. No. 95-8]

C. **Initiation.** An application for a development permit for a variance shall be submitted by the owner, an agent authorized in writing to act on the owner's behalf, or another person having a written contractual interest in the land for which the variance is proposed.

D. **Procedure.**

1. **General.**

   a. **Submission of application.** An application for a development permit for a variance, except a variance to Art 8, Subdivision, shall be submitted to the Zoning Director along with a nonrefundable application fee that is established by the Board of County Commissioners from time to time to defray the actual cost of processing the application. An application for a development permit for a variance to Art. 8, Subdivision, shall be submitted to the County Engineer along with a nonrefundable application fee that is established by the Board of County Commissioners from time to time to defray the actual cost of processing the application.

   b. **Use approval required prior to submittal of a variance application.** Use approval by the Zoning Commission or Board of County Commissioners, as required by table 6.4.1 (Use Regulation Schedule) of this code shall be obtained prior to applying for a variance from a property development regulation, except that if the requested variance is for existing on-site conditions and is not contingent on the use approval, the Zoning Director may permit submittal of a variance application prior to the use approval.

   c. **Variance approval required prior to use approval.** Variance approval shall be obtained for deviations from minimum acreage requirements, prior to certification by the Development Review Committee for inclusion on a public hearing agenda or final development plan certification, whichever first occurs, in accordance with the process established by Table 6.4-1, Use Regulation Schedule.

d. **Variance approval required prior to issuance of a final development order.** Approval of a variance from property development regulations of this code shall be obtained prior to final certification of a preliminary development plan, final master plan, final site plan or final subdivision plan by the Development Review Committee, plat recordation, or issuance of a building permit whichever occurs first in accordance with procedures set forth in this code.

2. **Contents of application.** All hearings before the Board of Adjustment shall be initiated by filing with the department an application established by the Zoning Director or County Engineer, whichever is appropriate.

   a. **Forms.** The application shall be filed on forms prescribed by the department, executed and sworn to by the owner or owner of at least fifty (50) percent of the property described in the application, or by tenant or tenants, with owner's written sworn-to-consent or by duly authorized agents, evidenced by a written power of attorney, if not a member of the Florida Bar, or contract purchasers, or by the director of the planning, zoning, and building department, or by any person aggrieved by an order, requirement, decision or determination of an administrative official when appealing the same.

   b. **Description.** All properties described in one (1) application must be contiguous and immediately adjacent to one another, and the director may require more than one (1) application if the property concerned contains more than forty (40) acres, or the fee paid for one (1) application would not equal the cost of processing the same.

   c. **Request for time limitation waiver.** If a variance is requested for property that does not require a building permit to implement the use, then the applicant may request a waiver from the time limitations in Section 5.7.h.2 of this Section. If a waiver from the time limitation is requested, the applicant shall specifically request the waiver simultaneous with submittal of the application and provide a written justification for the request. The Board of Adjustment shall review the justification and if sufficient make a finding, as a condition of approval, that the variance is not subject to the time limitations of this section or may require compliance with the variance approval by a specified time, as deemed appropriate.

3. **Determination of sufficiency**. The Zoning Director or County Engineer, whichever is appropriate, shall determine if the application is sufficient and includes data necessary to evaluate the application within five (5) working days of its receipt.

   a. If the Zoning Director, or County Engineer, whichever is appropriate, determines that the application is not sufficient, a written notice shall be served on the applicant specifying the application's deficiencies. The Zoning Director or County Engineer, whichever is appropriate, shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within twenty (20) working days, the application shall be considered withdrawn.

   b. If the Zoning Director or County Engineer, whichever is appropriate, determines the application is sufficient, the Zoning Director or County Engineer, whichever is appropriate, shall place the application on the next available hearing consistent with the Zoning Director's calendar.

4. **Review and recommendation by the Zoning Director, or County Engineer.**

   a. Within fifteen (15) working days after the application is determined sufficient, the Zoning Director or County Engineer, whichever is appropriate, and the other appropriate County Departments shall review the application and shall forward a staff report, including recommended findings of fact and conclusions of law, either recommending approval, approval with conditions, or disapproval of the application based upon the standards in Sec. 5.7.E. Prior to issuance of a staff report, the Zoning Director or County Engineer, whichever is appropriate, shall ensure that the application is in compliance with Art 11, Adequate Public Facility Standards. If the decision on adequate public facilities is delayed pursuant to the procedures and standards of Art. 11, Adequate Public Facilities Standards, the time for completion of the staff report shall be delayed so that the staff report is issued subsequent to the adequate public facilities decision.

   b. The Zoning Director or County Engineer, whichever is appropriate, shall mail a copy of the staff report to the applicant within three (3) working days of its completion and a minimum of ten (10) working days prior to the public hearing.

   c. The public hearing on the application shall then be scheduled for the first available regularly scheduled Board of Adjustment meeting, by which time the public notice requirements can be satisfied, or such time as it is mutually agreed upon between the applicant and Zoning Director or County Engineer, whichever is appropriate.

5. **Public hearing.** The Board of Adjustment shall hold one (1) public hearing on an application for development permit for a variance. Notice of the public hearing shall be pursuant to the following standards.

   a. **Publication.** There shall be advertised public notice in a newspaper of general circulation published in the Palm Beach County at least fifteen (15) calendar days prior to the public hearing.

   b. **Mailing.** Notice shall be sent by certified mail, return receipt requested, to all land owners within three hundred (300) feet of the periphery of the land subject to the application, whose names and addresses are known by reference to the latest published ad valorem tax records of the County property appraiser, except that when an owner of real property consists of a condominium, notice shall be given to the condominium association and all real property owners living within three hundred (300) feet. If the area within three hundred (300) feet is owned by the applicant or partner in interest, then the three hundred (300) foot notification boundary shall be extended from these parcels. All property owners associations and cooperatives within this area as well as all counties and municipalities within one mile of the area shall also be notified. Areas that a municipality has identified as a future annexation area shall also give notice to the municipality. The notice shall state the substance of the application and shall set a time and place for the public hearing on such application. The notice shall contain a location map clearly indicating the area covered by the proposal including major street, and a statement that interested parties may appear at the public hearing and be heard regarding the proposal. Such notice shall be given approximately fifteen (15) to thirty (30) calendar days prior to the date set for the first public hearing on an application for a development permit.

c. **Posting.** The land subject to the application for a development permit for a variance shall be posted with a notice of the public hearing on a sign provided by the County at least fifteen (15) calendar days in advance of any public hearing. One (1) notice shall be posted for each one hundred (100) feet of frontage along a public street. Notice shall be setback no more than twenty five (25) feet from the street. All signs shall be erected in full view of the public on each street side of the land subject to the application. Where the land does not have frontage on a public street, signs shall be erected on the nearest street right-of-way with an attached notation indicating generally the direction and distance to the land subject to the application. If the change in land use is being requested by a public agency or the Board of County Commissioners, signs shall be erected on the nearest street right-of-way or at major intersections leading to and within the subject property. The notice shall contain a map indicating the boundaries of the subject property. The signs shall be removed by the applicant after the decision is rendered on the application. The failure of any such posted notice to remain in place after the notice has been posted shall not be deemed a failure to comply with this requirement, or be grounds to challenge the validity of any decision made by the Board of County Commissioners.

6. **Public hearing on application for variance.** The Board of Adjustment shall hold a public hearing on the application pursuant to the provisions established in Sec. 5.1.F. At the public hearing, the Board shall consider the application, the staff report, the relevant support materials, and the public testimony given at the public hearing. After the close of the public hearing, the Board of Adjustment shall approve, approve with conditions, or deny the application for development permit for variance pursuant to the standards of Sec. 5.7.E.

[Ord. No. 93-4]; [Ord. No. 95-8];[Ord. No. 95-24]

E. Standards.

1. **General.** In order to authorize any variance from the terms of this Code, the Board of Adjustment must find that:

   a. **Special conditions and circumstances exist.** Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure, that are not applicable to other parcels of land, structures or buildings in the same district;

   b. **Not result of applicant.** Special circumstances and conditions do not result from the actions of the applicant;

   c. **No special privilege conferred.** Granting the variance shall not confer upon the applicant any special privilege denied by the Comprehensive Plan and this Code to other parcels of land, buildings, or structures, in the same district;

   d. **Literal interpretation constitutes unnecessary and undue hardship.** Literal interpretation and enforcement of the terms and provisions of this Code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same district, and would work an unnecessary and undue hardship;

   e. **Minimum variance.** Grant of variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure; and

f. **Consistent with Comprehensive Plan.** Grant of the variance will be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and this Code.

g. **Not detrimental.** The grant of the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

2. **Supplemental standards of variances in flood hazard.** In addition, to authorize any variance in areas defined on the Flood Hazard Boundary Map (FHBM) as Flood Zone A, the following standards must be met.

a. There shall be no danger that materials may be swept onto other lands to the injury of others;

b. There shall be no danger of life and property due to flooding or erosion damage;

c. There shall be minimum susceptibility of the proposed facility and its contents to flood damage;

d. The development subject to the variance shall be of some importance to the community;

e. There are no alternative locations for the proposed development, that are not subject to flooding or erosion damage;

f. The proposed development is compatible with existing and anticipated development;

g. The proposed use is compatible and consistent with the Comprehensive Plan and floodplain management program for that area;

h. There is safe access from the land in times of flood for ordinary and emergency vehicles;

i. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site will not destroy the development;

j. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges is minimal;

k. There shall be within any designated floodway no increase in flood levels during the base flood discharge;

l. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief and in the instance of an historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building;

m. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, and; (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

n. The base flood elevation and the elevation to which the structure with a variance is to be built shall be determined and the landowner shall provide a written statement recognizing that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

o. The variance shall be reported to the Federal Emergency Management Agency.

3. **Noise violations.** To authorize any variance to Sec. 7.8.A.4, Noise, only the following standards must be met.

a. Additional time is necessary to alter the activity to comply with Sec. 7.8.A.4, Noise.

b. The activity, operation, or noise source will be of temporary duration and cannot be done in a manner that would comply with Sec. 7.8.A.4, Noise.

c. No reasonable alternative is available. Any variance granted pursuant to this section contains all conditions upon which the variance has been granted, including but not limited to the effective date, time of day, location, sound level, limit or equipment limitation and duration of the variance.

[Ord. No. 93-4]

F. **Conditions.** The Zoning Director or County Engineer, whichever is appropriate, may recommend, and the Board of Adjustment may impose, such conditions in a development order for a variance as are necessary to accomplish the goals, objectives and policies of the Comprehensive Plan and this Code,including, but not limited to, limitations on size, bulk, location, requirements for landscaping, buffering, lighting, and provisions of adequate ingress and egress. Any violation of the variance or condition shall be a violation of this Code.

[Ord. No. 93-4]

G. **Administrative variance.** Notwithstanding the other provisions of Sec. 5.7, the Zoning Director shall issue two (2) types of administrative variance.

1. **Enlargement or expansion of minor nonconforming use.** The Zoning Director may issue an administrative variance for the enlargement, expansion, or rebuilding of a minor nonconforming use pursuant to Article 13, Nonconforming use, on one (1) occasion, provided that the extent of the improvement does not exceed ten (10) percent of the floor area of that individual structure or ten (10) percent of the original assessed value of the structure, whichever is less.

2. **Structural encroachments into setbacks of no more than five (5) percent.** The Zoning Director may also issue an administrative variance for structural encroachments into a setback of no more than five (5) percent of the setback if the structural encroachment does not enter an easement right-of-way or is on a zero lot line zero side.

3. **Preservation of Vegetation.** The Zoning Director may grant a variance for the following minimum property development regulations for the purpose of accommodating the preservation of existing native tree(s) pursuant to Article 7.5, Vegetation Preservation.

   a. Up to five (5) percent of a required setback;

   b. Up to five (5) percent of the required parking spaces.

   This section may not be combined with any other section that allows variations from the same property development regulations.

4. **Native Ecosystem Overlay District - Flexible Development Regulations.** The Zoning Director may grant a variance from the following property development regulations pursuant to the extent permitted by Section 6.7:

   a. off-street parking

   b. off-street loading

   c. density/intensity

   d. heights

   e. setbacks

5. **Conditions.** The Zoning Director may impose such conditions in a development order for an administrative variance as are necessary to accomplish the goals, objectives and policies of the Comprehensive Plan and this Code, including but not limited to limitations on size, bulk, location, requirements for landscaping, buffering, lighting, and provisions of adequate ingress and egress.

[Ord. No. 93-4][Ord. No. 94-23]

H. Effect of development order.

1. **General.** Issuance of a development order for a variance shall be deemed to authorize only the particular use for which it is issued. A development order for a variance shall run with the land.

   a. Granting of a variance by the Board of Adjustment does not obligate the approval of a use by the Zoning Commission or the Board of County Commissioners.

   b. Granting of a use approval by the Board of County Commissioners does not obligate the approval of a variance by the Board of Adjustment.

2. **Time limitation.** Unless otherwise specified in the development order for the variance, an application for a building permit shall be made within twelve (12) months of the date of the approval of the development order for the variance, or the development order for the variance shall automatically become null and void. Permitted time frames do not change with successive owners. Upon written request, an extension of time for the variance or any condition thereof may be granted only by the Board of Adjustment, with or without conditions, for a period up to but not to exceed twenty-four (24) months, if good cause is demonstrated. No request for an extension shall be considered unless a written application requesting the extension is submitted to the Zoning Director or County Engineer, whichever is appropriate, no later than twenty (20) working days prior to the date the development order or condition is to expire. Failure to submit an application for an extension within the time limits established by this section shall render the development order for the variance null and void.

3. **Time Limitation Waiver.** The Board of Adjustment may make a finding, in accordance with 5.7.d.2.c, that time limitations as required by this Section may not apply if implementation of the variance does not require the issuance of a building permit.

4. **Subsequent development order(s).** Development of the use shall not be carried out until the applicant has secured all other development orders required by this Code, and regional, state and federal approvals, if applicable. A development order for a variance shall not ensure that the development approved as a variance shall receive subsequent approval for other applications for development permits unless the relevant and applicable portions of this Code are met.

[Ord. No. 94-23]

I. Amendment to development order for variance. A development order for a variance may be amended only pursuant to the procedures and standards established for its original approval, or as is otherwise set forth in this section.

[Ord. No. 95-8]

J. Appeal of Decision by the Zoning Director for an Administrative Variance. Any person aggrieved by a decision of the Zoning Director on an application for an administrative variance shall, within thirty (30) calendar days, file an appeal to the Development Review Appeals Board using the forms and procedures established by the Zoning Director.

[Ord. No. 95-8]

[Ord No. 93-4; February 2, 1993] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-8; March 21, 1995] [Ord. No. 95-24; July 11, 1995]

SEC.5.8 COMPLIANCE WITH TIME LIMITATIONS.

A. General. Purpose and intent.

1. It is the intent of the Board of County Commissioners to provide for the public health, safety and welfare by establishing procedures for mandatory review of development orders. Chapter 163, part II, Florida Statutes, entitled "Local Government Comprehensive Planning and Land Development Regulations Act" provides that all development regulations shall be consistent with the adopted comprehensive plan. Chapter 163 further provides that public facilities and services shall be available concurrent with the impacts of development. Pursuant to Chapter 163, the 1989 Palm Beach County Comprehensive Plan requires that the applicant for all development orders or permits must demonstrate that the necessary public facilities and services are available. To ensure the availability of facilities and services to proposed developments, it is necessary that developments which have reserved capacity proceed in the prescribed time. Systematic monitoring and subsequent review of approved development orders will help implement the goals within the comprehensive plan by:

   a. Preserving the availability of public facilities and services for proposed development by removing capacity reserved for inactive development.

   b. Minimizing the creation of an artificially inflated inventory of residential, commercial, and industrial development.

   c. Enhancing the value and use of land in unincorporated Palm Beach County by identifying and providing a system to eliminate obsolete approvals which distort the official land use inventory.

   d. Encouraging compliance with improved performance and site design standards by providing a system whereby approved, but unbuilt, developments are subject to periodic review.

2. It is the intent of the Board of County Commissioners to ensure compliance with the conditions of development orders and with specific time requirements for the completion of activities associated with said approvals or with this Code. The Board of County Commissioners recognizes that unforeseen factors may interfere with the established schedule. This section creates an administrative program to monitor and provide extensions for activities which must be completed within a certain time period pursuant to a development order or pursuant to this Code.

3. The Board of County Commissioners recognizes that development is a complicated process. Despite efforts on the part of developers to proceed according to plans, unforeseen factors may interfere with the schedule of development and compliance with conditions of approval. Administrative reviews must be flexible enough to accommodate unforeseen circumstances. The review procedure created in this section establishes a flexible system for administrative review and monitoring of the progress of development and approval of time extensions.

4. To meet the intent of this section, the Board of County Commissioners may review development orders issued prior to the adoption of this code for compliance with the time requirements of this code and for compliance with conditions of approval.

5. When the Board of County Commissioners or any provision of this Code has imposed a condition of development approval or time limit for the completion or duration of a specific activity or phase of development, the property owner shall be responsible for compliance. **[Ord. No. 93-4][Ord. No. 94-23]**

B. Applicability.

1. This section shall apply to:

   a. All development orders with a time requirement for completing one or more actions as identified in Table 5.8-1 or in the development process as required by specific sections of this code.

   b. All development orders with conditions of approval.

2. The following are exempt from this section:

   a. Any development order for rezoning to the PO-Public Ownership District which does not have an approved conditional use.

   b. Any development order initiated by staff at the direction of the Board of County Commissioners after a review pursuant to this section.

   c. Any development order for a rezoning of a single lot of record to a residential zoning district that corresponds to the minimum density permitted in the Comprehensive Plan Future Land Use designation for that lot, provided there is no concurrency reservation or concurrency exemption for the property.

   For development orders which are subject to the requirements of this section, the time limitations shall apply to those approved both prior to and subsequent to the effective date of this amendment. **[Ord. No. 93-4][Ord. No. 94-23]**

C. Procedures.

1. **Suspension.** Suspension of development orders upon failure to comply with time requirement or failure to comply with condition of development approval.

   a. Upon expiration of any time period established by this Code or for any failure to comply with a condition of development approval, no new development orders affecting the property shall be issued by Palm Beach County until a final determination is made by the executive director, or designee, or Board of County Commissioners pursuant to subsections 5.8.C.2. and 5.8.C.5. herein. There will be no suspension of development rights if the only recommendation in the status report to the Board of County Commissioners is to delete a condition of approval. This suspension of development rights shall not preclude the property owner from filing a new petition for the subject property to amend or supersede an existing development order, or the Board of County Commissioners or Zoning Commission from approving this petition.

b. This suspension of development rights shall have the following effect on new petitions and code enforcement actions:

(1) If the property owner files a new petition, no new development orders shall be issued until the completion of the zoning process except the development order which approves the petition.

(2) If the Board of County Commissioners directs staff to cite the property owner for violating the provisions of the Code, no new development orders shall be issued until the alleged violation has been ruled upon by the code enforcement board, and any enforcement action is completed, or penalty is satisfied. This shall not, however preclude compliance with the specific condition cited in the status report after the Board of County Commissioners or Zoning Commission has directed the Code Enforcement Division to cite the property owner for noncompliance with that condition.

c. Upon the expiration of any time period or upon reasonable cause to believe that a condition of development approval has been violated, a document shall be filed with the clerk of the circuit court to be placed with the records governing title to the affected property except as provided in subsection 5.8.C.1.a. herein. This document may apply only to that portion of the property related to the expired time period, or any condition violated. The document shall give record notice that:

(1) A condition of development has been violated or a time certain activity has not proceeded as required;

(2) A review of the project will be conducted pursuant to the terms of this section;

(3) Until the review is completed, no new development orders shall be issued by Palm Beach County; and,

(4) Such other information as may be reasonable and necessary to afford adequate record notice of the effect of this section on the rights of property owners.

d. If the Board of County Commissioners or the executive director approves further development pursuant to subsection 5.8.C.2. or 5.8.C.5., herein, a second document shall be filed with the clerk of the circuit court to be placed with the records governing title to the property indicating:

(1) That the rights to develop have been restored; and,

(2) Such other information as may be reasonable and necessary to afford adequate record notice of the effect of this section on the rights of property owners.

This document shall only be recorded upon payment of all status report fees as established from time-to-time by the Board of County Commissioners. The status report fee may be waived if: (1) the property owner is a government agency; or (2) the property owner is prevented from complying by a government-caused delay or by litigation that would prevent action by the property owner to bring the approval into compliance.

2. Administrative extension of time.

a. The owner of record, the current agent, or mortgagor demonstrating a secured interest in the property which is not being protected by the owner may file an application with the executive director of planning, zoning and building for an administrative extension of time. The application shall be made upon such forms and in such a manner, including payment of fees, as prescribed by the Planning, Zoning and Building department.

b. Upon the filing of an application for an administrative extension of time, the executive director, or other person designated by this code, may grant an extension of time to comply with a requirement. A time extension shall commence upon the expiration of the date to comply with the time requirement, or the expiration of the last extension, whichever is applicable.

The maximum duration of an administrative time extension is as follows:

(1) **Development order.** Table 5.8-1 provides the maximum length of each administrative time extension for each development order governed by this Code.

(2) **Conditions of approval.** Twelve (12) months shall be the maximum. Subsequent applications may be filed; however, the total administrative extensions approved shall not exceed twenty-four (24) months except when government caused delays can be documented as the reason for failure to meet required deadlines. The executive director, or a designee, shall grant such extensions as necessary to offset government caused delays, not necessarily equal to the time of delay. It is the responsibility of the property owner to notify staff in writing of the delay, however, no application or fee will be required. If the Board of County Commissioners has previously approved a time extension, any administrative extensions of time shall not extend more than twenty four (24) months from the original date for compliance except when there have been government caused delays.

(3) **Posting of Performance Surety for a Conditional Certificate of Concurrency Reservation.** A one time six month administrative time extension shall be the maximum.

c. In reviewing applications for administrative time extensions for requirements other than conditions of approval, the executive director or designee shall approve a time extension if the development order is:

(1) Consistent with the Palm Beach County Comprehensive Plan;
(2) Consistent with the Unified Land Development Code; and
(3) Complying with the Countywide Traffic Performance Standard.

d. In reviewing applications for administrative time extensions for compliance with conditions of approval, the executive director, or designee, shall consider the following:

(1) Attempts by the applicant to complete the unfulfilled condition;
(2) The reliance by other parties on the timely performance of activity;
(3) Any changed circumstances which may have interfered with the ability of the property owner to meet the time certain requirement;
(4) Actions of other parties that may have precluded compliance;

(5) The existence of extraordinary mitigating factors;
(6) Compliance with the review criteria in subsection 11.4.C.5.c.(3)(b) criteria 1-5, above for posting of performance surety for a conditional certificate of concurrency reservation.

e. When the extension of time is for the payment of fees, the amount due shall increase by an interest payment equal to twelve (12) percent a year. If the extension covers a period less than a year, then the interest shall be prorated.

f. When the executive director or designed approves an extension of time for completion of a time certain requirement, he/she may require the property owner to guarantee the completion by furnishing a cash deposit, letter of credit, or surety bond.

3. **Appeal.** An appeal of a denial of an administrative time extension may be made to the Board of County Commissioners. An appeal shall be made upon forms prescribed by the department within thirty (30) days of the mailing of the notice that the request for an administrative extension has been denied. The appeal shall be set on the zoning authority agenda within sixty (60) days of receipt by the department. The Board of County Commissioners shall either affirm the decision of the department or grant an extension of time. An extension of time may be granted only upon a finding by the Board of County Commissioners that the requirements of subsection 5.8.C.2.c. or 5.8.C.2.d., as appropriate, have been satisfied.

4. **Failure to comply with conditions or time requirements.**

a. In the event that a property owner fails to comply with any time requirement and has not received a time extension or a property owner violates a condition of approval, staff shall advertise a status report public hearing for the agenda of the Board of County Commissioners or Zoning Commission. The hearing shall be held within ninety (90) days of the filing of the notice required by subsection 5.8.C.1.a. herein. Unless the property owner utilizes the provisions of subsection 5.8.C.4.a.1 below. Staff may delay the scheduling of the status report public hearing if, prior to the most recent deadline for compliance:

(1) The property owner files for an amended or new development order which may affect the time requirement or any condition being violated. If the new petition is approved and the time requirement has not been affected, or if the petition is denied, staff will place the status report on a Board of County Commissioners' or Zoning Commission's agenda within sixty (60) days; or
(2) Staff is notified by the property owner that there is a deadline to commence development or record a plat, and that either a complete building permit application has been submitted, or technical compliance for a plat has been received, as appropriate, and development will commence, or the plat will be recorded, within ninety (90) days of the deadline. The suspension of development orders as required by subsection 5.8.C.1. will only occur if development has not commenced, or a plat has not been recorded within the ninety (90) day time period.

b. The status report shall contain a description of the development order, a summary of the background and current status of the development, including any documentation provided to staff of efforts to comply with the requirement, or circumstances beyond the control and cause of the property owner, other than economic conditions, which have prevented compliance; a description of any uncompleted conditions or time certain requirements; a review of criteria set forth in subsection 5.8.C.2.d for status reports prepared for failure to comply with a condition of approval, as well as a determination of whether the development order:

(1) Is consistent with the Palm Beach County Comprehensive Plan;
(2) Is consistent with the Unified Land Development Code; and
(3) Complies with the Countywide Traffic Performance Standard.

Based on these factors, staff shall make a recommendation for one (1) or more of the actions identified in subsection 5.8.C.5.b. herein.

c. An administrative status report fee shall be established by the Board of County Commissioners in order to provide for this process.

d. Consideration of all actions, except a rezoning, permitted by Sec. 5.8.C.5.b., shall occur in the following manner:

(1) **Public hearing.** At least one public hearing shall be held by the Zoning Commission or by the Board of County Commissioners, as applicable.
(2) **Mail notice.** The owner of record shall be notified in writing of the executive director's status report and recommendation to the Board of County Commissioners or Zoning Commission. Written notice shall consist of a letter sent at least fourteen (14) calendar days prior to the hearing by certified mail, return receipt requested, to the last known address of the owner of record as it appears in the official records of the Palm Beach County Property Appraiser's Office. Proof of the receipt shall be presented at the hearing. In the event that the owner fails to acknowledge receipt of mail notice or the notice is returned unopened, newspaper publication, as set forth below, shall be deemed sufficient notice. Written notice shall include:
   (a) A statement that the time period has expired or that a condition of approval has been violated and that the development shall be subject to review;
   (b) The executive director's recommendation to the Board of County Commissioners or Zoning Commission;
   (c) A statement that review may result in one (1) or more of the actions identified in subsection C.5.b., herein;
   (d) Notice of the date, time, and place of the hearing before the Board of County Commissioners or Zoning Commission, during which the report and recommendation of the executive director will be heard;
   (e) A statement of the owner's right to appear and to present relevant information to rebut or to supplement the report of the executive director; and
   (f) Such other information as may be necessary and appropriate to accomplish the goals of this section.

(3) **Newspaper Publication.** Notice of the hearing shall be published in a newspaper of general circulation in accordance with Sec. 125.66(2)(a). Notice shall be published at least ten (10) days prior to the hearing.

e. Consideration of all rezonings on properties less than ten (10) contiguous acres, by the Board of County Commissioners, shall occur in the following manner:

(1) **Public hearing.** The Board of County Commissioners shall hold at least one (1) public hearing on a proposed amendment to the boundaries of the Official Zoning Map.

(2) **Mail notice.** The owner of record shall be notified in writing of the executive director's status report and recommendation to the Board of County Commissioners. Written notice shall consist of a letter sent at least thirty (30) calendar days prior to the hearing by certified mail, return receipt requested, in accordance with Section 125.66(4)(a), Fla. Stat. In the event that the owner fails to acknowledge receipt of mail notice or the notice is returned unopened, newspaper publication, as set forth below, shall be deemed sufficient notice. In addition to the requirements of Sec. 125.66(4)(a), Fla. Stat., written notice shall include the items as stated in Sec. 5.8.C.4.d.(1)(a)-(1)(f) above.

(3) **Newspaper publication.** In addition to the notice mailed to the owner of record, notice of the hearing shall be published in a newspaper of general circulation in accordance with Sec. 125.66(2) of the Fla. Stat. Notice shall be published at least ten (10) days prior to the hearing.

f. Prior to consideration of all rezoning on properties of ten (10) or more contiguous acres by the Board of County Commissioners, notice to the owner of record and advertisement of the proceedings shall occur in the following manner:

(1) **Public hearing.** The Board of County Commissioners shall hold two (2) public hearings on a proposed amendment to the boundaries of the Official Zoning Map when the amendment would affect ten (10) or more contiguous acres of total unincorporated land area. The second public hearing shall be held at least ten (10) calendar days after the first public hearing in accordance with Sec. 125.66(4)(b)1., of Fla. Stat.

(2) **Mail notice.** The owner of record shall be notified in writing of the executive director's status report and recommendation to the Board of County Commissioners and shall be noticed in accordance with Section 125.66(4)(b)3., Fla. Stat. Written notice shall consist of a letter sent at least thirty (30) calendar days prior to both the first and second hearing by certified mail, return receipt requested, to the last known address of the owner of record as it appears in the official records of the Palm Beach County Property Appraisers Office. In the event that the owner fails to acknowledge receipt of mail notice or the notice is returned unopened, newspaper publication, as set forth below, shall be deemed sufficient notice. Written notice shall include the items as stated in Sec. 5.8.C.4.d.(1)(a)-(1)(f) above.

(3) **Newspaper publication.** In addition to the notice mailed to the owner of record, notice shall be published in a newspaper of general circulation in the County. Notice shall be published once for each hearing; the first publication shall be at least seven (7) calendar days prior to the date of the first hearing and the second publication shall be least five (5) calendar days prior to the second hearing.

The notice shall state the date, time, and place of the hearing; the proposed action; and the place within the County where the status report and recommendation may be inspected by the public. The notice shall advise that interested parties may appear at the hearing and be heard

with respect to the report and recommendation. A copy of such notice shall be kept available for public inspection at the Planning, Zoning and Building Department during regular business hours.

5. Decision by the Board of County Commissioners or Zoning Commission.

a. The Board of County Commissioners or Zoning Commission shall consider the factors enumerated in subsection 5.8.C.4.b., above, and the recommendation of the department.

b. After deliberation, the Board of County Commissioners or Zoning Commission shall take one (1) or more of the following actions:

(1) Adopt a resolution which will rezone the property to an appropriate zoning district.

(2) Adopt a resolution which will revoke the approval for the conditional use or special exception.

(3) Adopt a resolution which will impose a limit such that no development order shall be issued permitting construction which exceeds entitlement density or entitlement intensity as established by the Land Use Element of the Palm Beach County Comprehensive Plan.

(4) Adopt a resolution which will impose additional or modified conditions or permit the property owner to initiate a petition to add or modify conditions, as directed by the board. New or modified conditions may include bringing the development into conformity with current codes and regulations.

(5) Direct staff to cite the property owner for violating the provisions of this Code.

(6) Grant a time extension for a period not to exceed twenty-four (24) months during which time the property owner shall comply with the time requirement. The term of the time extension shall commence upon the expiration of the date to complete the time certain activity, or the expiration of the last extension, whichever is applicable. When the board approves an extension of time for the payments of fees, the amount due shall increase by an interest payment equal to twelve (12) percent a year. If the extension covers a period less than a year, the interest shall be prorated.

i) **Posting of surety for a conditional certificate of concurrency.** Grant a one time six-month time extension for conditions of approval requiring the posting of surety. The term of the time extension shall commence upon the expiration of the date to post surety. In no case shall the total time to post surety exceed twelve (12) months from the date of approval of the development order which imposed the condition to post surety.

ii) **All other conditions of approval.** Grant a time extension for a period not to exceed twenty-four (24) months during which time the property owner shall comply with the time requirement. The term of the time extension shall commence upon the expiration of the date to complete the time certain activity, or the expiration of the last extension, whichever is applicable. When the Board approves an extension of time for the payments of fees, the amount due shall increase by an interest payment equal to twelve (12) percent a year. If the extension covers a period less than a year, the interest shall be prorated.

(7) Amend or revoke the development order or map amendment for the undeveloped or unplatted portion of the project.

(8) Exempt from further review of any development order which rezoned property to a district which corresponds to the density or intensity permitted by the Comprehensive Plan Future Land Use designation, provided there is no concurrency reservation or exemption for the property. This exemption may be applied to any advertised status report after adoption of this amendment.

(9) Deny or revoke a building permit; issue a stop work order; deny a Certificate of Occupancy on any building or structure; deny or revoke any permit or approval for any developer-owner, commercial-owner, lessee, or user of the subject property.

c. If the Board of County Commissioners or Zoning Commission fails to act on staff recommendations within the prescribed time period, or if the executive director or designee grants an administrative time extension, the issuance of new development orders shall immediately resume.

d. The decision of the Board of County Commissioners or Zoning Commission shall be rendered within sixty-five (65) days of the originally advertised public hearing, provided that the property owner has not requested a postponement of the matter. A postponement approved at the request of the property owner may not exceed twelve (12) months from the due date for compliance.

6. **Expiration of time extensions granted by the Board of County Commissioners.** In the event that the property owner has not complied with the condition of development approval or time certain activity at the expiration of a time extension, the development order shall be subject to the requirements of subsections 5.8.C.2., or 5.8.C.4. and 5.8.C.5. herein, as appropriate.

[Ord. No. 93-4] [Ord. No. 94-23] [Ord. No. 95-8][Ord. No. 95-24] [Ord. No. 95-38]

D. Supplementary regulations for classes of development orders.

1. **General.** For specific types of development approvals, this section:

a. Designates the next required development permit or action and minimum time period for receipt of permit or commencement of action;

b. Provides the maximum time to obtain permit or commence action;

c. Provides the maximum length of an administrative time extension for commencing next required action or receiving the next required development permit;

d. Designates the staff person who may approve an administrative extension of time; and

e. Provides for action upon failure to comply with the time requirement without an approved time extension.

2. **Classes of development approvals.** Unless otherwise established in the development order, the time frames provided in Table 5.8-1 apply. Permitted time frames do not change with successive owners.

3. **Effect of phasing on time frames for receipt of a required permit or commencement of a required action.**

   a. **Planned Unit Development Districts.** The development order and master plan or final subdivision plan for the planned unit development may provide for phasing. If the development order specifies phasing, a master plan shall provide the order in which plats will be recorded. Table 5.8-1 provides time requirements for recording plats.

   b. **Conditional uses or Planned Development Districts other than Planned Unit Development Districts.** The Final site plan/Final Subdivision plan for the conditional use or planned development may provide for phasing. If the Final site plan/Final subdivision plan specifies phasing, it shall provide a phasing order in which development will commence. Table 5.8-1 provides the maximum number of phases permitted for each type of development order. Each phase must contain a minimum of twenty (20) percent of the land area unless otherwise approved in the development order approved by the Board of County Commissioners or Zoning Commission. Table 5.8-1 also provides time requirements for commencement of development.

4. **Effect of modification to a development order on the time requirements of this section.**

   a. Planned development district or conditional use:

      (1) Administrative modification of site plan does not alter original time certain requirement.
      (2) Board of County Commissioners' modification to development orders may include a condition of approval which provides a new time for commencement of development or to record a plat (up to the maximum time permitted for a new development order) if the modification is determined to be a substantial change in land use as defined in Sec. 3.2.

   b. A final site plan or final subdivision plan may be modified by the Development Review Committee. A modification, unless determined to be materially different by the DRC, shall not establish a new time to commence development or record a plat.

[Ord. No. 93-4] [Ord. No. 94-23]
[Ord. No. 93-4; February 2, 1993] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-38; September 19, 1995]

TABLE 5.8-1

TIME LIMITATIONS OF DEVELOPMENT ORDER FOR EACH PHASE						
TYPE OF DEVELOPMENT ORDER		MAXIMUM NUMBER OF PHASES	NEXT REQUIRED ACTION OR DEVELOPMENT ORDER	MAXIMUM TIME TO RECEIVE DEVELOPMENT PERMIT OR COMMENCE DEVELOPMENT	MAXIMUM LENGTH OF ADMINISTRATIVE TIME EXTENSION [4]	ACTION UPON FAILURE TO COMPLY WITH TIME REQUIREMENT WITHOUT AN APPROVED TIME EXTENSION
REZONING		2	Commence development[1]	three (3) years[2]	twelve (12) months	BCC review pursuant to subsections C.1 and C.5 herein
CONDITIONAL USES CLASS "A" AND CLASS "B"		2	Commence development or use Conditional Use if no construction is required [1]	three (3) years [2]	twelve (12) months	Pursuant to subsections C.4 and C.5 herein: Class A - BCC review; Class B - Zoning Commission review
PLANNED DEVELOPMENT DISTRICT: NON PLANNED UNIT DEVELOPMENT		4	Commence development [1]	three (3) years[2]	twelve (12) months	BCC review pursuant to subsections C.4 and C.5 herein
PLANNED DEVELOPMENT DISTRICT: PLANNED UNIT DEVELOPMENT		no maximum	Record plat	three (3) years[2]	no extensions permitted	BCC review pursuant to subsections C.4 and C.5 herein
DEVELOPMENT ORDERS WHICH AT THE TIME OF CERTIFICATION ARE NOT ASSOCIATED WITH ANY OTHER DEVELOPMENT ORDER WHICH IS SUBJECT TO THE REQUIREMENTS OF SECTION 5.8 (THOSE LISTED ABOVE):	SITE PLAN	2	Commence development [1]	four (4) years[3]	no extensions permitted	Plan null and void for the undeveloped phases of a site plan, and unplatted phases of a subdivision plan.
	FINAL SUBDIVISION PLAN: NON-RESIDENTIAL	2	Commence development[1]	four (4) years[3]		
	FINAL SUBDIVISION PLAN: RESIDENTIAL	no maximum	Record plat	three (3) years[3]		

1. Commencement of development shall consist of:

   a. Receipt of a building permit and first inspection approval for a) the entire development, or b) all of the next phase if phasing is provided by the development order and final Master Plan pursuant to subsection 5.8.D.3.b herein; or

   b. The initiation of significant site improvements such that the improvements would only permit the development of the approved project, and any other pattern of development would require extensive changes to the installed improvements.

   Commencement of development shall not consist of:

   a. The dividing of land into parcels, unless the determination of commencement is to be made for property with straight residential zoning and this division is accomplished through the recordation of a plat or plat waiver; or

   b. Demolition of a structure; or

   c. Deposit of refuse, solid or liquid waste, or fill on the parcel unless the development order is exclusively and specifically for such; or

   d. Clearing of land.

2. From resolution adoption date for first phase, and from date of commencement of development of last phase, or last plat recordation date, for subsequent phases.

3. From plan certification date for first phase, and from date of commencement of development of last phase, or last plat recordation date, for subsequent phases.

4. All administrative time extensions listed in this table are to be approved or denied by the Executive Director of the Planning, Zoning and Building Department.

[Ord. No. 93-4] [Ord. No. 94-23]
[Ord. No. 93-4; February 2, 1993] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-8; March 21, 1995] [Ord. No. 95-24; July 11, 1995] [Ord. No. 95-38; September 19, 1995]

ARTICLE 6.

ZONING DISTRICTS

TABLE OF CONTENTS

ARTICLE 6
ZONING DISTRICTS

		Page
SEC. 6.1	DISTRICTS ESTABLISHED.	1
A.	Purpose and intent.	1
B.	Zoning districts established.	1
SEC. 6.2	DISTRICT PURPOSES AND USES	2
A.	Conservation district.	2
1.	PC, Preservation/Conservation District	2
B.	Agricultural districts.	3
1.	AGR, Agricultural Reserve District	3
2.	AP, Agricultural Production District.	4
3.	SA, Special Agricultural District.	5
4.	RSER, Rural Services District	7
C.	Rural residential districts.	8
1.	AR-RR, Agricultural Residential District in Rural Residential.	8
2.	CRS, Country Residential District	9
D.	Urban residential districts.	10
1.	Agricultural uses in the Urban Services Area (USA).	10
2.	RE, Residential Estate District	11
3.	RT, Residential Transitional District	12
4.	RTS, Residential Transitional Suburban District	13
5.	RTU, Residential Transitional Urban District	14
6.	RS, Single-Family Residential District.	15
7.	RM, Multi-Family Residential (Medium Density) District.	16
8.	RH, Multi-Family Residential (High Density) District	17
9.	(AR-USA) Agricultural Residential in the Urban Services Area	18
E.	Commercial districts.	19
1.	Agricultural uses in the Urban Services Area (USA).	19
2.	CN, Neighborhood Commercial District	20
3.	CLO, Limited Office Commercial District	21
4.	CC, Community Commercial District	22
5.	CHO, Commercial High Office District	24
6.	CG, General Commercial District.	25
7.	CRE, Commercial Recreation District	27
F.	Industrial districts.	28
1.	Agricultural uses in the Urban Services Area (USA).	28
2.	IL, Light Industrial District.	28
3.	IG, General Industrial District	30
G.	Public ownership district.	31

1. PO, Public Ownership District. . . . 31
H. Overlay districts. . . . 32
1. NE-O, Native Ecosystem Overlay District. . . . 32
2. WCRA-O, Westgate/Belvedere Homes Overlay District . . . 32
3. R&T-O, Research and Technology Overlay District . . . 33
4. GA-O, Glades Area Economic Development Overlay District . . . 33
5. PBIA-O, Palm Beach International Airport Overlay District . . . 33
6. IOZ, Indiantown Road Overlay District . . . 33
7. COZ, Conditional Overlay District . . . 34
I. Planned development districts. . . . 34
1. PUD, Residential Planned Unit Development District . . . 34
2. TND, Traditional Neighborhood Development District. . . . 34
3. MXPD, Mixed-Use Planned Development District . . . 35
4. MUPD, Multiple Use Planned Development District. . . . 35
5. PIPD, Planned Industrial Park Development District. . . . 36
6. MHPD, Mobile Home Park Planned Development District . . . 36
7. RVPD, Recreational Vehicle Park Planned Development District . . . 37
8. SWPD, Solid Waste Disposal Planned Development District . . . 37

SEC. 6.3 ZONING MAP AND DISTRICT BOUNDARIES. . . . 38
A. Establishment of Official Zoning Map . . . 38
B. Amendment to the Official Zoning Map . . . 38
C. Replacement of Official Zoning Map. . . . 38

SEC. 6.4 USE REGULATIONS AND DEFINITIONS. . . . 18
A. General . . . 18
B. Use classification . . . 18
C. Use regulations schedule . . . 18
1. Permitted by right . . . 18
2. Site plan/final subdivision plan . . . 18
3. Special use . . . 18
4. Conditional use, Class B . . . 18
5. Conditional use, Class A . . . 19
6. Prohibited uses . . . 20
7. Supplementary use standards . . . 20
8. Uses located in Overlay Zones . . . 20
9. District Specific Regulations . . . 20
D. Supplementary use standards . . . 55
1. Accessory dwelling . . . 55
2. Adult entertainment . . . 56
3. Agricultural research and development . . . 59
4. Agricultural sales and service . . . 59
5. Agricultural transshipment . . . 60
6. Agriculture, bona fide . . . 60

7. Air curtain incinerator, permanent 63
8. Air curtain incinerator, temporary 64
8.1 Air Stripper Tower (Remedial System) 65
9. Airport, landing strip or heliport 65
10. Amusements, temporary or Special event 66
11. Arena, auditorium or stadium 67
12. Assembly, nonprofit, institutional and membership 68
13. Auction 68
14. Automotive paint and body shop 68
15. Automotive service station 69
15.1 Aviculture 69
16. Bed and breakfast 69
17. Campground 70
17.1 Camping cabin 71
18. Car wash or auto detailing 71
19. Cemetery 72
20. Chipping and mulching 72
21. Church or place of worship 74
22. Communication tower, commercial 75
22.1 Community vegetable garden 79
23. Composting facility 80
24. Congregate living facility 81
25. Contractor's storage yard 85
26. Convenience store 86
27. Convenience store with gas sales 86
28. Day care center, limited or general 87
29. Day labor employment service 88
30. Dispatching office 89
31. Electrical power facility 89
32. Entertainment, indoor 90
33. Entertainment, outdoor 90
34. Equestrian arena, commercial 91
34.1. Estate kitchen 92
35. Excavation, Type III 92
36. Farm residence 92
37. Farm workers quarters 93
38. Financial institution 93
39. Fitness center 93
40. Flea market, enclosed 94
41. Flea market, open 94
42. Fruit and vegetable market 94
43. Funeral home 94A
44. Garage sale 94B
45. Golf course 95
46. Government services 95
47. Groom's quarters 95
47.1 Groves/row crops 96

48. Gun club enclosed or open 97
49. Gun (Shooting) Range, private 97
50. Home occupation 98
51. Hotel, motel, SRO, boarding and rooming house 100
52. Hospital or medical center 101
53. Kennel, commercial 102
54. Kennel, private 103
55. Landscape maintenance service 103
56. Laundry services 104
56.1 Livestock raising 104
57. Lounge, cocktail 105
58. Machine or welding shop 105
59. Marine facility 106
60. Medical or dental office or clinic 106
61. Migrant farm labor quarters 106
62. Mobile home dwelling 107
63. Mobile home park 107
64. Motion picture production studio 108
65. Multi-family 109
66. Newsstand or gift shop 109
66.1 Nursery, retail 110
66.2 Nursery, wholesale 111
67. Nursing or convalescent facility 112
68. Office, business or professional 113
68.1 Packing plant 113
69. Park, passive 114
70. Park, public 115
71. Parking garage or lot, commercial 115
72. Personal services 115
73. Potting soil manufacturing 116
74. Recycling collection station 117
75. Recycling drop-off bin 117
76. Recycling plant 117
77. Repair and maintenance, general 119
78. Repair services, limited 120
79. Restaurant, fast food 120
80. Restaurant, general 120
81. Restaurant, specialty 121
82. Retail sales, general 122
83. Retail sales, mobile, temporary or transient 122
84. Sanitary landfill or incinerator 124
85. School, elementary or secondary 125
86. Security or caretaker quarters 132
87. Self-service storage 133
87.1 Shade House 136
88. Single-family 136
89. Solid waste transfer station 137

90. Stable, commercial . . . 138
91. Stable, private . . . 139
92. Stand for the sale of agricultural products . . . 139
92.1 Storage, agricultural . . . 140A
93. Sugar mill or refinery . . . 140A
94. Theater drive-in . . . 141
95. Townhouse . . . 141
96. Utility, minor . . . 143
97. Vehicle sales and rental . . . 143
97.1 Vehicle repair and related services, minor mobile . . . 145
98. Veterinary clinic . . . 146
99. Vocational school . . . 146
100. Warehousing . . . 147
101. Water or wastewater treatment facility and dewatered domestic wastewater residuals land application . . . 147
102. Wholesaling, general . . . 151
103. Zero lot line home . . . 151
104. Zoo . . . 155

SEC. 6.5 PROPERTY DEVELOPMENT REGULATIONS . . . 157
A. Property development regulations schedule . . . 157
TABLE 6.5-1 PROPERTY DEVELOPMENT REGULATIONS SCHEDULE . . . 157
B. General exceptions . . . 158
1. CRS district in LR1 . . . 158
2. Single-family development in multi-family districts . . . 158
3. Townhouse development . . . 158
4. Special density programs . . . 158
C. Lot dimensions . . . 158
1. Lot size . . . 158
2. Lot width . . . 159
3. Lot frontage . . . 159
4. Lot depth . . . 159
D. Density . . . 159
1. Calculation of density . . . 159
2. RT district in LR1 . . . 160
3. Maximum density . . . 160
E. Floor area ratio (FAR) . . . 160
F. Building coverage . . . 160
G. Setbacks . . . 160
1. Front setback . . . 160
2. Interior side setback . . . 160
3. Street side setback . . . 161
4. Rear setback . . . 161
5. Setbacks from a safe sight corner . . . 162
6. Setbacks abutting passive open space . . . 162
7. Base building line . . . 162
H. Building height . . . 163

1. General limitation . . . 163
2. Accessory agricultural structures . . . 163
3. Multi-family and nonresidential districts . . . 163
4. Exceptions to height regulations . . . 164
I. Exceptions to property development regulations . . . 164
J. District specific regulations . . . 165
1. AGR Use Limitations . . . 165
2. Additional AR and CRS district regulations for Accessory structures . . . 165
3. Additional residential district regulations . . . 166
4. Additional SA district regulations . . . 166
5. Additional CN district regulations . . . 166
6. Additional regulations in all commercial districts . . . 166
7. Additional CLO district regulations . . . 167
8. Additional CC district regulations . . . 167
9. Additional IL and IG district regulations . . . 168
K. Easement encroachment . . . 168
1. Purpose . . . 168
2. Prohibition . . . 168
3. Incompatible uses . . . 168
4. Application process for encroachment into utility easements . . . 168
5. Application process for encroaching into drainage easements . . . 169
6. Issuance of approval on drainage easements . . . 169
7. Evaluation criteria for construction or landscaping within utility or drainage easements . . . 170
8. Fee . . . 170
9. All other approvals required . . . 170
10. Duties of departments . . . 171
11. Deviation . . . 171
L. Flexible Property Development Regulations for Density Bonus Program Development . . . 171
1. Purpose and Intent . . . 171
2. Applicability . . . 171
3. Exceptions . . . 171
4. Regulating Plan . . . 171
M. Property Development Regulations . . . 172
1. Minimum lot area and dimensions . . . 172
2. Exceptions to zero lot line minimum lot dimensions . . . 172
3. Maximum building intensity and building location standards . . . 172
4. Building height . . . 172
N. Minimum recreation requirements . . . 173
1. Minimum recreation area . . . 173
O. Parking requirements . . . 174
P. Accessory uses and residential structures . . . 174
Q. Minimum dwelling unit size . . . 174

R. Minimum landscape and buffer requirements 174
1. Minimum tree planting requirement 174
2. Minimum buffer requirement 175

SEC. 6.6 SUPPLEMENTARY REGULATIONS 175
A. Accessory uses and structures 175
1. General 175
2. Fences, walls and hedges 175
3. Outdoor storage 177
4. Fuel, gas, or chemical storage tanks 177
5. Dumpsters 177
6. Multi-family recyclable material storage areas 177
7. Commercial recyclable material storage area 179
8. Accessory outdoor recreation 179
9. Swimming pools and spas 180
10. Screen Enclosures 181
11. Accessory radio tower 184
12. Amateur radio, television antennas and satellite dish antennas 184
13. Seaplanes 186
14. Accessory Commercial Development 186
B. Temporary structures 187
1. Temporary emergency structures 187
2. Tents accessory to non-retail use 187
3. Temporary facilities during development activity 188
C. Compatibility standards 189
1. Unified image 189
2. Uniform treatment 189
3. Entrances 190
4. Roof top equipment 190
5. Storage areas 190
6. Loading docks, bay doors, and accessory equipment 190

SEC 6.7 OVERLAY DISTRICT REGULATIONS. 191
A. NE-O, Native Ecosystem Overlay District 191
1. Purpose and intent 191
2. Applicability 191
3. Boundaries 191
4. Conflict with other applicable regulations 191
5. Use regulations 191
6. Property development regulations 191
B. WCRA-O, Westgate/Belvedere Homes Overlay District 192
1. Purpose and intent 193
2. Applicability 193
3. Boundaries 193
4. Conflict with other applicable regulations 193
5. Procedures 193
6. Site Plan/Final Subdivision Plan review 193

7. Amendment of zoning map within WCRA-O district 194
8. Overlay district uses 194
9. Property development regulations 196
10. Local Residential Streets 199
11. Stormwater Discharge Control 200

C. R&T-O, Research and Technology Overlay District 200
1. Purpose and intent 200
2. Applicability 200
3. Boundaries 201
4. Conflict with other applicable regulations 201
5. Use regulations 201
6. Property development regulations 201
7. Performance standards 201

D. GA-O, Glades Area Economic Development Overlay District 201
1. Purpose and intent 201
2. Applicability 201
3. Boundaries 202
4. Conflict with other applicable regulations 202
5. Use regulations 202
6. Property development regulations 202

E. PBIA-O Palm Beach International Airport Overlay District 203
1. Purpose and intent 203
2. Applicability 203
3. Boundaries 203
4. Conflict with other applicable regulations 203
5. General provisions 203
6. Review procedures 204
7. Use regulations 204
8. Property development regulations 205

F. IOZ, Indiantown Road Overlay District 210
1. Purpose and intent 210
2. Applicability 210
3. Boundaries 210
4. Additional regulations 210
5. Conflict with other applicable regulations 210
6. Joint Review Process 210

G. COZ, Conditional Overlay Zone District 210
1. Purpose and intent 210
2. Applicability 211
3. Use regulations 211
4. Procedure 211

H. TAP-O, Turnpike Aquifer Protection Overlay District 212
1. Purpose and intent 212
2. Applicability 212
3. Exemption 212
4. Boundaries 212
5. Conflict with other applicable regulations 216

6. General provisions 216
7. Mandatory identification and dedication of public supply water well sites 216
8. Public supply water well site compatibility and location criteria 216
9. Dedication of well site within required open space 217
10. Access easement to dedicated public supply water well site 217
11. Temporary construction access easement 218
12. Hold harmless agreements 218
13. Dedication of public water supply sites 218
14. Developer's agreements 218

SEC. 6.8 PLANNED DEVELOPMENT DISTRICT REGULATIONS 219
A. General 219
1. Purpose and intent 219
2. Applicability 220
3. Residential density and Comprehensive Plan land uses categories 221
4. Initiation of application 226
5. Preapplication Conference 226
6. Threshold review 226
7. Submission of application 226
8. Contents of application 226
9. Determination of sufficiency 229
10. Review and certification by DRC 230
11. Public hearings 230
12. Notice 231
13. Action by Zoning Commission 231
14. Action by BCC 232
15. Action by Development Review Committee (DRC) 232
16. Effect of Preliminary Development Plan DRC Certification 235
17. Classification of Official Zoning Map 235
18. Effect of development order for Preliminary Development Plan 235
19. Amendment to Preliminary Development Plan 236
20. Phasing controls and platting 236
21. Unified control 236
22. Use regulations 237
23. Design objectives 248
B. PUD, Residential Planned Unit Development District 258
1. Purpose and intent 258
2. Applicability 258
3. Previous approvals 258
4. Application 259
5. Administration 264
6. Land Uses 265
7. Property development regulations 271
C. TND, Traditional Neighborhood Development District 275
1. Purpose and intent 275
2. Previous approvals 275

3. Application 275
4. Administration 283
5. Land use zones 283
6. Property development regulations 288
D. MXPD, Mixed-Use Planned Development District 297
1. Purpose and intent 297
2. Applicability 297
3. Application 297
4. Administration 302
5. Land uses 302
6. Property development regulations 303
E. MUPD, Multiple Use Planned Development District 307
1. Purpose and intent 307
2. Applicability 307
3. Previous approvals 307
4. Application 308
5. Administration 310
F. PIPD, Planned Industrial Park Development District 313
1. Purpose and intent 313
2. Applicability 313
3. Previous approvals 313
4. Application 313
5. Administration 317
6. Use regulations 317
7. Property development regulations 321
G. MHPD, Mobile Home Park Planned Development District 323
1. Purpose and intent 323
2. Applicability 323
3. Previous approvals 323
4. Application 323
5. Administration 326
6. Use regulations 327
7. Property development regulations 331
H. RVPD, Recreational Vehicle Park Planned Development District 333
1. Purpose and intent 333
2. Applicability 334
3. Previous approvals 334
4. Application 334
5. Administration 335
6. Use regulations 336
7. Property development regulations 337
I. SWPD, Solid Waste Disposal Planned Development District 339
1. Purpose and intent 339
2. Exemptions 340
3. Applicability 340
4. Effect on previous approvals 340
5. Application requirements 340

6. Property development regulations 343

SEC. 6.9 VOLUNTARY DENSITY BONUS 345
A. Purpose and Intent 345
B. Authority 345
C. Applicability 345
D. General 345
E. Provisions for the construction of very low and/or low income housing 346
1. Construction of units 346
2. Payment in-lieu-of construction 347
3. Combination of construction of units and the payment in-lieu-of construction 347
F. Presubmittal Conference 348
G. Review of Land Use Compatibility 348
1. Submission of application 348
2. Determination of sufficiency 348
3. Review and decision of the Planning Director 349
4. Review by the Land Use Advisory Board 349
5. Standards 349
6. Review of an application to proceed 350
7. Issuance of a recommendation to proceed 350
8. Appeals 350
H. Development review procedures for voluntary density bonus applicants 350
1. Submission of general application 350
2. Review and decision of the Planning Director 350
3. Threshold Review 351
4. Review and recommendation of the DRC 351
5. Review and recommendation of the Zoning Commission 351
6. Action by Board of County Commissioners 351
I. Standards 351
1. General standards 351
J. Conditions 352
K. Effect 352
1. Amendments to a voluntary density bonus 352
2. Map designation of a density bonus development 352
3. Transfer of a density bonus 352
4. Amendments to Concurrency Reservation 352
5. Monitoring 352

SEC. 6.10 TRANSFER OF DEVELOPMENT RIGHTS - SPECIAL DENSITY PROGRAM . . . 352
A. Purpose and intent 352
B. Authority 353
C. Applicability 353
D. Definitions 353
E. TDR Program in General 354
F. Administration 355
1. General 355

2. Responsibilities 355
G. Sending Areas 355
1. General 355
2. Eligible Sending areas shall include 355
3. Overlap in Sending Areas 356
4. Transfer Rate 356
5. Transfer Limitations 356
6. Computation of the Development Rights 356
7. Restriction on Future Use 356
8. Existing Uses 357
9. Remaining Land Area 357
H. County Transfer of Development Rights Bank 357
1. General 357
2. Establishment of Development Rights for the Bank 357
3. Transfer rate from the Purchase of Environmentally Sensitive Lands 357
4. The Application, Sale and Value of Development Rights 358
5. Annual Report 358
6. Revenue from the Sale of TDRs 358
I. Receiving Areas 358
1. Eligible Receiving Areas include 358
2. Residential Density Bonus 358
3. Prohibitions 359
J. Transfer of Development Rights: Sending Area Procedure 359
1. Sending Parcel Application 359
2. Review Process 359
3. Written Determination 359
4. Easement Agreement 360
5. Re-submittal of Application 360
6. Development Rights Certificates 360
7. Limitations 360
K. Transfer of Development Rights: Receiving Area Procedure 360
1. General 360
2. Preapplication Conference 360
3. Threshold Review 360
L. Development Review Procedures for the Transfer of Development Rights Receiving Area Applicants 362
1. Review and recommendation of the DRC 362
2. Review and recommendation of the Zoning Commission 362
3. BCC Findings 362
4. Conditions 363
5. Notification to Property Appraisers Office 363
M. County Initiated Land Use Amendment 363
N. Accounting for TDR Density 363

SEC. 6.1 DISTRICTS ESTABLISHED.

A. **Purpose and intent.** In order to ensure that all development in unincorporated Palm Beach County is consistent with the Comprehensive Plan, it is necessary and proper to establish a series of districts to ensure that each use is compatible with surrounding uses, served by adequate public facilities, and sensitive to natural and coastal resources. Each district has its own purpose and has permitted uses, conditional uses, special uses and other regulations that control the use of land in each district. All development within each district shall be consistent with the purposes stated in this article.

B. **Zoning districts established.** In order to carry out and implement the Comprehensive Plan, the following thirty-eight (38) districts are hereby established.

1. PC, Preservation/Conservation District
2. AGR, Agricultural Reserve District
3. AP, Agricultural Production District
4. SA, Special Agricultural District
5. RSER, Rural Services District
6. AR, Agricultural Residential District
7. CRS, Country Residential District
8. RE, Residential Estate District
9. RT, Residential Transitional District
10. RTS, Residential Transitional Suburban District
11. RTU, Residential Transitional Urban District
12. RS, Single-Family Residential District
13. RM, Multi-Family Residential (Medium Density) District
14. RH, Multi-Family Residential (High Density) District
15. CN, Neighborhood Commercial District
16. CLO, Limited Office Commercial District
17. CC, Community Commercial District
18. CHO, Commercial High Intensity Office District
19. CG, General Commercial District
20. CRE, Commercial Recreation District
21. IL, Light Industrial District
22. IG, General Industrial District
23. PO, Public Ownership District
24. NE-O, Native Ecosystem Overlay District
25. WCRA-O, Westgate/Belvedere Homes Overlay District
26. R&T-O, Research and Technology Overlay District
27. GA-O, Glades Area Economic Development Overlay District
28. PBIA-O, Palm Beach International Airport Overlay District
29. PUD, Residential Planned Unit Development District
30. TND, Traditional Neighborhood Development District
31. MXPD, Mixed Use Planned Development District
32. MUPD, Multiple Use Planned Development District
33. PIPD, Planned Industrial Park Development District
34. MHPD, Mobile Home Park Planned Development District

35. RVPD, Recreational Vehicle Park Planned Development District
36. SWPD, Solid Waste Disposal Planned Development District
37. IOZ, Indiantown Road Overlay District
38. COZ, Conditional Overlay District

[Ord. No. 93-4]
[Ord. No. 93-4; February 16, 1993]

SEC. 6.2 **DISTRICT PURPOSES AND USES.** The thirty-eight (38) districts established to implement the Comprehensive Plan have the following purposes and permit the following uses.

A. Conservation district.

1. **PC, Preservation/Conservation District.** The purpose and intent of the PC district is to protect lands that provide habitats for endangered species of wildlife, fish, or flora, that are important habitats for the production of fish and wildlife, or that are sites of historical or archaeological significance. The PC district corresponds to the Conservation land use designation in the Future Land Use Element of the Comprehensive Plan. The following uses are subject to the standards referenced below.

PERMITTED USE:

Park, passive

PERMITTED SUBJECT TO DRC SITE PLAN:
Park, public
Campground

CONDITIONAL USE CLASS A:

Communication tower, commercial

Reference section:

1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Accessory/Temporary Structure Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Lighting/Noise Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

B. Agricultural districts.

1. **AGR, Agricultural Reserve District.** The purpose and intent of the AGR district is established to identify lands presently used for predominantly agricultural production as an ecologically and economically valued resource. The purpose and intent of the AGR District is to assure that these lands have the opportunity to remain in agricultural production as long as economically feasible, particularly where soil and water conditions favor continued agricultural production. The AGR District corresponds to the Agricultural Reserve (AGR) land use designation of the land use element of the comprehensive plan and recognizes the study of the long-term viability of agriculture in the agricultural reserve area to be conducted beginning in 1990. The results of the study will require the revision of policies and regulations related to the agricultural reserve area in both the Palm Beach County Comprehensive Plan and the Unified Land Development Code. Until such time as the study is complete, certain uses which are recognized in the AGR District may not be developed pursuant to the requirements of the comprehensive plan. The following uses are subject to the standards referenced below.

PERMITTED USES:

Agriculture, bona fide
Aviculture
Estate kitchen
Farm residence
Farm worker quarters
Garage sale
Guest cottage
Home occupation
Nursery, retail
Nursery, wholesale
Park, passive
Single family residence
Stable, private

PERMITTED SUBJECT TO DRC SITE PLAN:

Agricultural research/development
Agricultural transshipment
Composting facility
Day care center, limited
Equestrian arena, commercial
Fruit and vegetable market
Government services
Gun range, private
Heliport or Helipad
Migrant farm labor quarters
Potting soil manufacturer
Stable, commercial
Utility, minor
Veterinary clinic

CONDITIONAL USE, CLASS B:

Agricultural sales and service
Airplane landing strip, accessory
Chipping and mulching
Communication tower, commercial
Grain milling or processing
Landscape maintenance services
Medical office or dental clinic
Park, public
Water or wastewater treatment plant

CONDITIONAL USE, CLASS A:

Air curtain incinerator, permanent
Electrical power facility
Grooms quarters
Solid waste transfer station

SPECIAL USES:

Accessory dwelling
Air curtain incinerator, temporary
Recycling drop off bin
Security or caretaker quarters
Stand for the sale of agricultural products

Reference Sections (AGR, Agricultural Reserve District):

1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Accessory/Temporary Structure Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Lighting/Noise Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

2. **AP, Agricultural Production District**. The purpose and intent of the AP district is to conserve and protect areas for exclusive, bona fide agricultural and farming related operations, particularly where soil and water conditions favor continued agricultural production. The AP district corresponds to the Agricultural Production (AP) land use designation in the Future Land Use Element of the Comprehensive Plan. A wide range of agricultural activities and their accessory uses shall be permitted in the AP district in order to maintain the vitality of the agricultural industry in Palm Beach County. The following uses are subject to the standards referenced below.

PERMITTED USES:
Agriculture, bona fide
Aviculture
Estate kitchen
Farm residence
Farm worker quarters
Garage sale
Grain milling or processing
Guest cottage
Home occupation
Nursery, wholesale
Park, passive
Stable, private
Sugar mill or refinery
Vehicle repair & related services, mobile minor
Veterinary clinic

PERMITTED SUBJECT TO DRC SITE PLAN:
Agricultural research/development
Agricultural transshipment
Assembly, nonprofit institutional
Cemetery
Communication tower, commercial
Composting facility
Day care center, limited
Government services
Gun club, enclosed
Gun club, open
Gun range, private
Heliport/helipad
Migrant farm labor quarters
Potting soil manufacturing
Stable, commercial
Utility, minor

SPECIAL USES:
Accessory dwelling
Air curtain incinerator, temporary
Grooms quarters
Recycling drop off bin
Security or caretaker quarters
Stand for the sale of agricultural products

CONDITIONAL USE, CLASS A:

Air curtain incinerator, permanent
Electrical power facility
Excavation, Type III
School, elementary or secondary
Solid waste transfer station

CONDITIONAL USE, CLASS B:
Agricultural sales and service
Airplane landing strip, accessory
Chipping and mulching
Church or place of worship
Medical office or dental clinic
Park, public
Water or wastewater treatment plant

Reference Sections (AP, Agricultural Production District):

1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Accessory/Temporary Structure Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Lighting/Noise Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

3. **SA, Special Agricultural District**. The purpose and intent of the SA district is to provide a transitional district that allows for more intensive agricultural uses and related services, and for limited commercial activities that provide convenience services to the rural community. The SA district corresponds to the Special Agriculture (SA) and Agricultural Production (AP) land use designations in the Future Land Use Element of the Comprehensive Plan, and the Rural Residential 10 (RR10) land use designation only when determined to be consistent with the Future Land Use Element of the Comprehensive Plan. The following uses are subject to the Supplementary use standards referenced below.

PERMITTED USES:
Agriculture, bona fide
Aviculture
Estate kitchen
Farm residence
Farm worker quarters
Fruit and vegetable market
Garage sale
Grain milling or processing
Home occupation
Kennel, private
Park, passive
Stable, private
Vehicle repair & related services, mobile minor

Guest cottage

SPECIAL USES:

Accessory dwelling
Air curtain incinerator, temporary
Amusements, temporary or special events
Grooms quarters
Retail sales, mobile, temporary or transient
Recycling drop off bin
Security/caretaker quarters
Stand for the sale of agricultural products

CONDITIONAL USE, CLASS A:

Agricultural sales & service
Agricultural transshipment
Air curtain incinerator, permanent
Chipping and mulching
Church or place of worship
Communication tower, commercial
Electrical power facility
Excavation Type III
Gun club, enclosed
Gun club, open
Hospital or medical center
Kennel, commercial
Landscape maintenance services
Potting soil manufacturing
School, elementary or secondary
Solid waste transfer station
Sugar mill or Refinery
Water or wastewater treatment plant

Reference Sections (SA, Special Agricultural District):

1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Accessory/Temporary Structure Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Lighting/Noise Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

4. **RSER, Rural Services District**. The purpose and intent of the RSER district is to provide for the clustering of service uses intended to serve predominantly rural residential communities. To receive the RSER district designation, lands shall lie within one half mile of the intersection of two (2) existing arterials, excluding easement type roads in the Rural Service Area. The RSER district corresponds to the Rural Residential 10 (RR10) land use designation in the Future Land Use Element of the Comprehensive Plan. The following uses are subject to the standards referenced below.

PERMITTED USES:
Fruit and vegetable market
Nursery, retail
Nursery, wholesale
Park, passive
Stable, private
Vehicle repair & related services, mobile minor

SPECIAL USES:
Air curtain incinerator, temporary
Amusements, temporary or special event
Grooms quarters
Recycling collection station
Recycling drop off bin
Security or caretaker quarters
Stand for the sale of agricultural products

PERMITTED SUBJECT TO DRC SITE PLAN:
Campground
Congregate living facility, Type 2
Contractor's storage yard
Day care center, limited
Dispatching office
Equestrian arena, commercial
Gun club, enclosed
Kennel, commercial
Park, public
Stable, commercial
Utility, minor
Veterinary clinic

CONDITIONAL USE, CLASS B:
Agricultural sales and service
Airplane landing strip, accessory
Assembly, nonprofit institutional
Assembly, nonprofit membership
Building supplies, retail
Church or place of worship
Communication tower, commercial
Funeral home or crematory
Gas and fuel, wholesale
Government services
Landscape maintenance service
Medical office or dental clinic
Repair services, limited
Vocational school
Zoo

CONDITIONAL USE, CLASS A:
Auction, enclosed
Auction, outdoor
Arena, auditorium or stadium
Bed and breakfast
College or university
Day care center, general
Electrical power facility
Entertainment, outdoor
Golf course
Gun club, open
Hospital or medical center
Nursing or convalescent facility
Repair and maintenance, general
School, elementary or secondary
Solid waste transfer station
Water or wastewater treatment plant

Reference Sections (RSER, Rural Services District):
1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Supplementary Development Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Performance Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

C. Rural residential districts.

1. **AR-RR, Agricultural Residential District in Rural Residential.** The purpose and intent of the AR district is to protect and enhance the rural lifestyle and quality of life of residents in areas designated rural residential, to protect watersheds and water supplies, wilderness and scenic areas, conservation and wildlife areas, and to permit a variety of uses that require non-urban locations but do not operate to the detriment of adjoining lands devoted to rural and residential purposes. The AR district corresponds with the Rural Residential 10 (RR10) and Rural Residential 20 (RR20) land use designations in the Future Land Use Element of the Comprehensive Plan. The following uses are subject to the standards referenced below.

PERMITTED USES:

Agriculture, bona fide
Aviculture
Congregate living facility, Type 1
Estate kitchen
Garage sale
Guest cottage
Home occupation
Shadehouse, accessory
Single-family residence
Stable, private
Storage, outdoor, agricultural
Storage, indoor, agricultural
Vehicle repair & related services, mobile minor

SPECIAL USES:

Accessory dwelling
Air curtain incinerator, temporary
Amusements, temporary or special events
Bed and Breakfast
Grooms quarters
Mobile home dwelling
Retail sales, mobile, temporary or transient
Recycling drop off bin
Security or caretaker quarters
Stand for the sale of agricultural products

PERMITTED SUBJECT TO DRC SITE PLAN:

Kennel, private
Nursery, wholesale
Park, passive
Stable, commercial
Utility, minor

CONDITIONAL USE, CLASS B:

Airplane landing strip, accessory
Equestrian arena, commercial
Packing plant
Park, public
Veterinary clinic

CONDITIONAL USE, CLASS A:

Assembly, nonprofit institutional
Cemetery
Church or place of worship
College or university
Communication tower, commercial

CONDITIONAL USE, CLASS A (cont'd)

Congregate living facility, Type 2
Day care center, limited
Day care center, general
Electrical power facility
Government services
Gun range, private
Heliport or helipad
Landscape maintenance service
Nursery, retail
School, elementary or secondary
Solid waste transfer station
Water or wastewater treatment plant
Zoo

Reference Sections (AR-RR, Agricultural Residential District in Rural Residential):

1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Accessory/Temporary Structure Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Lighting/Noise Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

2. **CRS, Country Residential District.** The purpose and intent of the CRS district is to provide for a primarily rural residential environment that is also conducive to the keeping of horses and livestock, to protect watersheds and water supplies, wilderness and scenic areas, and conservation and wildlife areas, and to permit a limited number of activities that require non-urban locations but do not operate to the detriment of adjoining lands devoted to rural and residential purposes. The CRS district corresponds with the Rural Residential 10 (RR10) and Rural Residential 20 (RR20) land use designation in the Future Land Use Element of the Comprehensive Plan, and may apply in existing low density neighborhoods within the Low Residential 1 (LR1) land use designation in the Future Land Use Element of the Comprehensive Plan. The following uses are subject to the standards referenced below.

PERMITTED USES:
Congregate living facility, Type 1
Estate kitchen
Garage sale
Guest cottage
Home occupation
Shadehouse, accessory
Single-family residence
Stable, private

PERMITTED SUBJECT TO DRC SITE PLAN:
Groves/row crops
Nursery, wholesale
Park, passive
Storage, outdoor, agricultural
Utility, minor

Vehicle repair & related services, minor mobile

SPECIAL USES:
Accessory dwelling
Bed and Breakfast
Grooms quarters
Mobile home dwelling
Recycling drop off bin
Security/caretaker quarters
Stand for the sale of agricultural products

CONDITIONAL USE, CLASS B:
Equestrian arena, commercial
Kennel, private
Park, public
Stable, commercial
Veterinary clinic

CONDITIONAL USE, CLASS A:
Agriculture, bona fide
Air curtain incinerator, temporary
Church or place of worship
College or university
Congregate living facility, Type 2
Communication tower, commercial
Day care center, general
Day care center, limited
Electrical power facility
Golf course
Government services
Livestock raising
Nursery, retail
Packing plant
School, elementary or secondary
Solid waste transfer station
Water or wastewater treatment plant

Reference Sections (CRS, Country Residential District):

1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Supplementary Development Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Performance Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

D. Urban residential districts.

1. Agricultural uses in the Urban Services Area (USA).

a. Applicability. Uses existing at the time of adoption of the ordinance permitting agricultural uses in the urban services area shall be considered to be conforming. Any expansion of existing agricultural uses and any new agricultural uses shall be consistent with all applicable requirements and subject to review by the appropriate staff or review board as identified in the ULDC.

b. **Uses.** Agricultural uses not listed below as permitted within the Urban Services Area, shall only be permitted with a class A Conditional use approval.

c. **Previous development orders.** Property which has a development order may also receive an additional development order for a temporary agricultural use in the USA in accordance with the standards enumerated in 6.4.D.(Supplementary use standards) for the specific agricultural use, however, the agricultural use shall not be eligible for an agricultural tax exemption.

2. **RE, Residential Estate District.** The purpose and intent of the RE district is to provide a transition between the agricultural and conservation areas and the more urban residential communities, and to create a residential environment wherein natural constraints applicable to development can be recognized and protected in a manner compatible with the needs of residents. The RE district corresponds with the Low Residential 1 (LR1) land use designation in the Future Land Use Element of the Comprehensive Plan. the following uses are subject to the standards referenced below.

PERMITTED USES:

Congregate living facility, Type 1
Estate kitchen
Garage sale
Guest cottage
Home occupation
Shadehouse, accessory
Single-family residence
Stable, private
Vehicle repair & related services, mobile minor

PERMITTED SUBJECT TO DRC SITE PLAN:

Park, passive
Storage, outdoor, agricultural
Utility, minor

CONDITIONAL USE, CLASS B:

Equestrian arena, commercial
Groves/row crops
Kennel, private
Nursery, wholesale
Storage, outdoor, agricultural

SPECIAL USES:

Accessory dwelling
Bed and Breakfast
Recycling drop off bin
Security/caretaker quarters

CONDITIONAL USE, CLASS A:

Agriculture, bona fide
Air curtain incinerator, temporary
Cemetery
Church or place of worship
Communication tower, commercial
Day care center, general
Day care center, limited
Electrical power facility
Golf course
Government services
Heliport or helipad
Livestock raising
Nursery, retail
Packing plant
Park, public
School, elementary or secondary
Solid waste transfer station
Stable, commercial
Water or wastewater treatment plant

Reference Sections (RE, Residential Estate District):

1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Accessory/Temporary Structure Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Lighting/Noise Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

3. **RT, Residential Transitional District.** The purpose and intent of the RT district is to provide a transition between a suburban single-family atmosphere and that which is provided by estate development. The promotion of active recreational facilities within the privacy of an individual lot, along with attention to natural environmental considerations will create an atmosphere compatible with residential needs. The RT district corresponds with the Low Residential 1 (LR1) and Low Residential 2 (LR2) land use designations in the Future Land Use Element of the Comprehensive Plan. the following uses are subject to the Supplementary use standards referenced below.

PERMITTED USES:

Congregate living facility, Type 1
Estate kitchen
Garage sale
Guest cottage
Home occupation
Shadehouse, accessory
Single family residence
Vehicle repair & related services, mobile minor

SPECIAL USES:

Accessory dwelling
Bed and Breakfast
Grooms quarters
Recycling drop off bin
Security/caretaker quarters

PERMITTED SUBJECT TO DRC SITE PLAN:

Park, passive
Storage, indoor, agricultural
Utility, minor

CONDITIONAL USE, CLASS B:

Equestrian arena, commercial
Groves/row crops
Nursery, wholesale
Stable, private
Storage, outdoor, agricultural

CONDITIONAL USE, CLASS A:

Agriculture, bona fide
Air curtain incinerator, temporary
Cemetery
Church or place of worship
Communication tower, commercial
Day care center, general
Day care center, limited
Electrical power facility
Golf course
Government services
Heliport or helipad
Kennel, private
Livestock raising
Nursery, retail
Packing plant
Park, public
School, elementary or secondary
Solid waste transfer station
Stable, commercial
Water or wastewater treatment plant

Reference Sections (RT, Residential Transitional District):
1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Accessory/Temporary Structure Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Lighting/Noise Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

4. **RTS, Residential Transitional Suburban District**. The purpose and intent of the RTS district is to provide lands for low intensity single-family development at or near the fringe of urban development. The provision of active recreational facilities within the privacy of an individual lot and the preservation of natural site features is encouraged in the RTS district to minimize the impact of such development upon the community. The RTS district corresponds with the Low Residential 2 (LR2) and Low Residential 3 (LR3) land use designations in the Future Land Use Element of the Comprehensive Plan. The following uses are subject to the Supplementary use standards referenced below.

PERMITTED USES:

Congregate living facility, Type 1
Estate kitchen
Garage sale
Guest cottage
Grooms quarters
Home occupation
Shadehouse, accessory
Single family residence
Vehicle repair & related services, mobile minor

SPECIAL USES:

Accessory dwelling
Bed and Breakfast
Recycling drop off bin
Security/caretaker quarters

PERMITTED SUBJECT TO DRC SITE PLAN:

Park, passive
Storage, indoor, agricultural
Utility, minor

CONDITIONAL USE, CLASS B:

Equestrian arena, commercial
Groves/row crops
Nursery, wholesale
Stable, private
Storage, outdoor, agricultural

CONDITIONAL USE, CLASS A:

Agriculture, bona fide
Air curtain incinerator, temporary
Cemetery
Church or place of worship
Communication tower, commercial
Day care center, general
Day care center, limited
Electrical power facility
Golf course
Government services
Grooms quarters
Heliport or helipad
Kennel, private
Livestock raising
Nursery, retail
Packing plant
Park, public
School, elementary or secondary
Stable, commercial
Solid waste transfer station

Water or wastewater treatment plant

Reference Sections (RTS, Residential Transitional Suburban District):

1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Accessory/Temporary Structure Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Lighting/Noise Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

5. **RTU, Residential Transitional Urban District.** The purpose and intent of the RTU district is to provide areas for single-family dwelling units at a moderate density. The RTU district corresponds to the Medium Residential 5 (MR5) land use designation in the Future Land Use Element of the Comprehensive Plan. The following uses are subject to the Supplementary use standards referenced below.

PERMITTED USES:
Congregate living facility, Type 1
Estate kitchen
Garage sale
Guest cottage
Home occupation
Vehicle repair & related services, mobile minor
Shadehouse, accessory
Single family residence

SPECIAL USES:
Accessory dwelling
Bed and Breakfast
Recycling drop off bin
Security/caretaker quarters

CONDITIONAL USE, CLASS A:
Agriculture, bona fide
Air curtain incinerator, temporary
Cemetery
Church or place of worship
Communication tower, commercial
Day care center, general
Day care center, limited
Electrical power facility
Equestrian arena, commercial
Golf course
Government services
Grooms quarters

PERMITTED SUBJECT TO DRC SITE PLAN:
Community vegetable garden
Park, passive
Storage, indoor, agricultural
Utility, minor

CONDITIONAL USE, CLASS B:
Storage, outdoor, agricultural
Nursery, wholesale
Stable, private

Groves/row crops
Kennel, private
Livestock raising
Nursery, retail
Nursing or convalescent facility
Packing plant
Park, public
School, elementary or secondary
Solid waste transfer station
Stable, commercial
Townhouse, zero lot line home
Water or wastewater treatment plant

Reference Sections (RTU, Residential Transitional Urban District):

1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Accessory/Temporary Structure Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Lighting/Noise Standard -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

6. **RS, Single-Family Residential District**. The purpose and intent of the RS district is to recognize the need to provide areas for moderately high density single-family dwelling units. The RS district corresponds with the Medium Residential 5 (MR5) and High Residential 8 (HR8) land use designations in the Future Land Use Element of the Comprehensive Plan. The following uses are subject to the Supplementary use standards referenced below.

PERMITTED USES:
Congregate living facility, Type 1
Estate kitchen
Garage sale
Guest cottage
Home occupation
Single-family residence
Shadehouse, accessory
Vehicle repair & related services, minor mobile

SPECIAL USES:
Accessory dwelling
Bed and Breakfast
Recycling drop off bin
Security/caretaker quarters

PERMITTED SUBJECT TO DRC SITE PLAN:
Community vegetable garden
Park, passive
Storage, indoor, agricultural
Townhouse
Utility, minor
Zero lot line home

CONDITIONAL USE, CLASS B:
Storage, outdoor, agricultural
Nursery, wholesale
Stable, private

CONDITIONAL USE, CLASS A:
Agriculture, bona fide
Air curtain incinerator, temporary
Assembly, nonprofit institutional
Cemetery
Church or place of worship
Communication tower, commercial
Congregate living facility, Type 2
Congregate living facility, Type 3
Day care center, general
Day care center, limited
Electrical power facility
Equestrian arena, commercial
Golf course
Government services
Grooms quarters
Groves/row crops
Kennel, private
Livestock raising
Nursery, retail
Nursing or convalescent facility
Packing plant
Park, public
School, elementary or secondary
Solid waste transfer station
Stable, commercial
Water or wastewater treatment plant

Reference Sections (RS, Single-Family Residential District):
1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Supplementary Development Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Performance Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

7. **RM, Multi-Family Residential (Medium Density) District**. The purpose and intent of the RM district is intended primarily for the development of multiple family dwelling units and affordable housing. The RM district corresponds with the High Residential 8 (HR 8), High Residential 12 (HR12) and the High Residential 18 (HR18) land use designations in the Future Land Use Element of the Comprehensive Plan. The following uses are subject to the Supplementary use standards referenced below.

PERMITTED USES:

Congregate living facility, Type 1
Estate kitchen
Garage sale
Guest cottage
Home occupation
Multi-family residence
Shadehouse, accessory
Single-family residence
Vehicle repair & related services, minor mobile

SPECIAL USES:

Accessory dwelling
Bed and Breakfast
Recycling drop off bin
Security/caretaker quarters

PERMITTED SUBJECT TO DRC SITE PLAN:

Community vegetable garden
Park, passive
Storage, indoor, agricultural
Townhouse
Utility, minor
Zero lot line home

CONDITIONAL USE, CLASS B:

Congregate living facility, Type 2
Day care center, limited
Fitness center
Nursery, wholesale
Park, public
Stable, private
Storage, outdoor, agricultural

CONDITIONAL USE, CLASS A:

Agriculture, bona fide
Air curtain incinerator, temporary
Assembly, nonprofit institutional
Cemetery
Church or place of worship
Communication tower, commercial
Congregate living facility, Type 3
Day care center, general
Electrical power facility
Equestrian arena, commercial
Golf course
Government services
Grooms quarters
Groves/row crops
Heliport or helipad
Kennel, private
Livestock raising
Nursery, retail

Nursing or convalescent facility

CONDITIONAL USE, CLASS A (cont'd):

Packing plant
School, elementary or secondary
Solid waste transfer station
Stable, commercial
Water or wastewater plant

Reference Sections (RM, Multi-Family Residential [Medium Density] District):
1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Supplementary Development Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Performance Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

8. **RH, Multi-Family Residential (High Density) District.** The purpose and intent of the RH district is intended primarily for the development of concentrated residential densities and affordable housing. The RH district corresponds with the High Residential 8 (HR 8), High Residential 12 (HR 12), High Residential 18 (HR18) land use designation in the Future Land Use Element of the Comprehensive Plan. The following uses are subject to the Supplementary use standards referenced below.

PERMITTED USES:

Congregate living facility, Type 1
Estate kitchen
Garage sale
Guest cottage
Home occupation
Multi-family residence
Single-family residence
Shadehouse, accessory
Vehicle repair & related services, minor mobile

SPECIAL USES:

Accessory dwelling
Bed and Breakfast
Recycling drop off bin
Security/caretaker quarters

CONDITIONAL USE, CLASS A:

Agriculture, bona fide
Air curtain incinerator, temporary
Assembly, nonprofit institutional
Cemetery
Church or place of worship
Communication tower, commercial
Congregate living facility, Type 3
Day care center, general
Electrical power facility
Equestrian arena, commercial
Golf course
Government services
Grooms quarters
Groves/row crops
Hotel, motel, SRO, boarding & rooming house
Kennel, private
Livestock raising
Nursery, retail

PERMITTED SUBJECT TO DRC SITE PLAN:

Community vegetable garden
Park, passive
Storage, indoor, agricultural
Townhouse
Utility, minor
Zero lot line home

CONDITIONAL USE, CLASS B:
Congregate living facility, Type 2
Day care center, limited
Fitness center
Nursery, wholesale
Park, public
Stable, private
Storage, outdoor, agricultural

Nursing or convalescent facility
Packing plant
School, elementary or secondary

CONDITIONAL USE, CLASS A (cont'd):
Solid waste transfer station
Stable, commercial
Water or wastewater treatment plant

Reference Sections (RH, Multi-Family Residential (High Density) District):
1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Supplementary Development Standards--See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Performance Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

9. **(AR-USA) Agricultural Residential in the Urban Services Area.** The purpose and intent of the AR district in the Urban Services Area is to provide the opportunity to utilize land for limited agricultural purposes, where appropriate. The intent is to prevent premature urbanization of certain areas, while protecting the lifestyle of residents until such time the agricultural uses convert to other uses consistent with the Comprehensive Plan.

PERMITTED USES:

Congregate living facility, Type 1
Estate Kitchen
Garage sale
Guest quarters
Home occupation
Shadehouse, accessory
Single family residence
Stable, private
Storage, indoor, agricultural

PERMITTED SUBJECT TO DRC SITE PLAN:

Groves/row crops
Kennel, private
Livestock raising
Nursery, wholesale
Park, passive
Stable, commercial
Utility, minor

Storage, outdoor, agricultural
Vehicle repair & related services, mobile minor

SPECIAL USES:
Accessory dwelling
Air Curtain incinerator, temporary
Bed & breakfast
Grooms quarters
Recycling drop off bin
Security/caretaker quarters
Stand for the sale of agricultural products

CONDITIONAL USE, CLASS B:
Equestrian arena, commercial
Packing Plant
Park, public
Veterinary Clinic (large animal)

CONDITIONAL USE, CLASS A:
Agriculture, bona fide
Cemetery
Church or place of worship
College or university
Communication tower, commercial
Congregate living facility, Type 2
Day care center, general
Day care center, limited
Electrical power facility
Government services
Heliport or helipad
Nursery, retail
School, elementary or secondary
Solid waste transfer station
Water or wastewater treatment plant

Reference Sections (AR-USA, Agricultural Residential in the Urban Services Area):
1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Accessory/Temporary Structure Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Lighting/Noise Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

E. Commercial districts.

1. Agricultural uses in the Urban Services Area (USA).

a. Applicability. Uses existing at the time of adoption of the ordinance permitting agricultural uses in the urban services area shall be considered to be conforming. Any expansion of existing agricultural uses and any new agricultural uses shall be consistent with all applicable requirements and subject to review by the appropriate staff or review board as identified in the ULDC.

b. Uses. Agricultural uses not listed below as permitted within the Urban Services Area, shall only be permitted with a class A Conditional use approval.

c. **Previous development orders**. Property which has a development order may also receive an additional development order for a temporary agricultural use in the USA in accordance with the standards enumerated in 6.4.D.(Supplementary use standards) for the specific agricultural use, however, the agricultural use shall not be eligible for an agricultural tax exemption.

2. **CN, Neighborhood Commercial District**. The purpose and intent of the CN district is to provide a limited commercial facility of a convenience nature, serving residential neighborhoods within a one-half (1/2) mile radius, located on a local, collector or an arterial road, with a total lot area of not less than one (1) acre. The CN district corresponds to the Commercial High Intensity (CH) and the Commercial Low Intensity (CL) land use designations in the Future Land Use Element of the Comprehensive Plan, or any zoning district corresponding to the underlying alternate density may be applied. The following uses are subject to the Supplementary use standards referenced below.

PERMITTED USES:

Fruit & vegetable market
Newsstand or gift shop
Nursery, retail
Office, business or professional
Personal services
Printing & copying services
Repair services, limited
Restaurant, specialty
Retail sales, general
Storage, indoor, agricultural
Shade house, accessory
Vehicle repair & related services, mobile minor

SPECIAL USES:

Amusements, temporary or special events
Recycling drop off bin
Security/caretaker quarters
Stand for the sale of agricultural products

PERMITTED SUBJECT TO DRC SITE PLAN:

Financial Institution
Government services
Park, passive
Recycling collection station
Restaurant, general
Utility, minor

CONDITIONAL USE, CLASS B:

Building supplies, retail
Congregate living facility, Type 2
Day care center, limited
Fitness center
Grooms quarters
Laundry services
Nursery, wholesale
Park, public
Stable, commercial
Stable, private
Storage, outdoor, agricultural

CONDITIONAL USE, CLASS A:

Agriculture, bona fide
Air curtain incinerator, temporary
Assembly, nonprofit institutional
Church or place of worship
Communication tower, commercial
Congregate living facility, Type 3
Convenience store, no gas sales
Day care center, general
Electrical power facility
Entertainment, indoor
Equestrian arena, commercial
Funeral home or crematory
Groves/row crops
Livestock, raising
Lounge, cocktail
Medical office or dental clinic
Nursing or convalescent facility

CONDITIONAL USE CLASS A (cont'd)
Packing plant
Recycling center
Solid waste transfer station
Veterinary clinic
Water or wastewater treatment plant

Reference Sections (CN, Neighborhood Commercial District):
1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Accessory/Temporary Structure Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Lighting/Noise Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

3. **CLO, Limited Office Commercial District.** The purpose and intent of the CLO district is to encourage development of low-intensity business offices and the integration of other complementary uses within the local environment where located on a local, collector, or an arterial road. The CLO district shall also serve as a transition between residential areas and intense commercial development. The CLO district corresponds to the Commercial Low Intensity-Office Only (CL-O) and the Commercial and the Commercial High Intensity Office (CHO), Commercial Low Intensity (CL), and Commercial High Intensity (CH) land use designations in the Future Land Use Element of the Comprehensive Plan, or any zoning district corresponding to the underlying alternate density may be applied. The following uses are subject to the Supplementary use standards referenced below.

PERMITTED USES:

Newsstand or gift shop
Office, business or professional
Park, passive
Personal services
Printing and copying services
Repair services, limited
Vehicle repair & related services, mobile minor

SPECIAL USES:

Recycling drop off bin
Security/caretaker quarters
Stand for sale of agricultural products

PERMITTED SUBJECT TO DRC SITE PLAN:

Data Information Processing
Financial institution
Government services
Laundry services
Packing plant
Restaurant, specialty
Utility, minor

CONDITIONAL USE, CLASS A:

Agriculture, bona fide
Air curtain incinerator, temporary
Church or place of worship
Communication tower, commercial
Day care center, general
Electrical power facility
Equestrian arena, commercial

CONDITIONAL USE, CLASS B:

Day care center, limited
Grooms quarters
Nursery, wholesale
Restaurant, general
Stable, commercial

Livestock raising

CONDITIONAL USE, CLASS A (cont'd):

Medical office or dental clinic
Packing plant
Solid waste transfer station
Veterinary clinic
Water or wastewater treatment plant

Reference Sections (CLO, Limited Office Commercial District) :

1) Supplementary Use Standards -- See Section 6.4.D.
2) Property Development Regulations -- See Section 6.5
3) Accessory/Temporary Structure Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Lighting/Noise Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

4. **CC, Community Commercial District**. The purpose and intent of the CC district is to provide a commercial facility of a community nature that services residential neighborhoods within a three (3) to five (5) mile radius, located on a collector or an arterial road, with a total lot area of not less than one (1) acre, that is planned and developed as an integral unit. The CC district corresponds to the Commercial Low Intensity (CL) and Commercial High Intensity (CH) land use designation in the Future Land Use Element of the Comprehensive Plan, or any zoning district corresponding to the underlying alternate density may be applied. The following uses are subject to the Supplementary use standards referenced below.

PERMITTED USES:

Fruit and vegetable market
Newsstand or gift shop
Nursery, retail
Nursery, wholesale
Office, business or professional
Park, passive
Personal services
Printing and copying services
Repair services, limited
Restaurant, general
Restaurant, specialty
Retail sales, general
Shade house, accessory
Storage, indoor, agricultural
Vehicle repair & related services, mobile minor
Veterinary, clinic

PERMITTED SUBJECT TO DRC SITE PLAN:

Day care center, limited
Fitness center
Government services
Grooms quarters
Laundry services
Park, public
Stable, commercial
Utility, minor

SPECIAL USES:

Amusements, temporary or special events
Retail sales, mobile, temporary or transient
Recycling collection station
Recycling drop off bin

SPECIAL USES (cont'd):
Security or caretaker quarters
Stand for sale of agricultural products

CONDITIONAL USE, CLASS B:
Agriculture, bona fide
Auction, enclosed
Assembly, nonprofit institutional
Assembly, nonprofit membership
Broadcasting studio
Communication tower, commercial
Financial institution
Medical office or dental clinic
Packing plant
Parking lot, commercial
Recycling center
Storage, outdoor, agricultural
Vocational school

CONDITIONAL USE, CLASS A:
Air curtain incinerator, temporary
Automotive service station
Arena, auditorium or stadium
Car wash and auto detailing
Church or place of worship
College or university
Congregate living facility, Type 3
Convenience store, no gas sales
Convenience store, with gas sales
Day care center, general
Electrical power facility
Entertainment, indoor
Entertainment, outdoor
Equestrian arena, commercial
Funeral home or crematory
Hospital or medical center
Golf course
Groves/row crops
Livestock raising
Lounge, cocktail
Nursing or convalescent facility
Restaurant, fast food
Self-service storage
School, elementary or secondary
Solid waste transfer station
Vehicle inspection center
Vehicle sales and rental
Water or wastewater treatment plant

Reference Sections (CC, Community Commercial District):
1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Accessory/Temporary Structure Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Lighting/Noise Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

5. **CHO, Commercial High Office District**. The purpose and intent of the CHO district is to encourage development of business office parks and the integration of other complementary uses within the business environment. The CHO district corresponds to the previous Specialized Commercial High (CSH) District, Specialized Commercial (CS) District and the Commercial High Intensity-Office Only (CH-O), and the Commercial High Intensity (CH) land use designations in the Future Land Use Element of the Comprehensive Plan, or any zoning district corresponding to the underlying alternate density may be applied. The following uses are subject to the Supplementary use standards referenced below.

PERMITTED USES:
Data Information Processing
Fitness center
Laundry services
Newsstand or gift shop
Office, business or professional
Nursery, wholesale
Park, passive
Personal services
Printing and copying services
Repair services, limited
Restaurant, specialty
Vehicle repair & related services, minor mobile
Vocational School

CONDITIONAL USE, CLASS B:
Agriculture, bona fide
Church or place of worship
Communication tower, commercial
Day care center, general
Financial institution
Hotel, motel, SRO, boarding & rooming house
Marine facility
Medical or dental laboratory
Packing plant
Parking lot, commercial
Restaurant, general
Veterinary clinic

SPECIAL USES:
Recycling drop off bin
Security/caretakers quarters
Stand for sale of agriculture products

PERMITTED SUBJECT TO DRC SITE PLAN:
Broadcasting studio
Day care center, limited
Government services
Grooms quarters
Heliport or helipad
Medical office or dental clinic
Motion picture production studio
Stable, commercial
Utility, minor

CONDITIONAL USE, CLASS A:
Air curtain incinerator, temporary
College or university
Electrical power facility
Equestrian arena, commercial
Hospital or medical center
Livestock, raising
Lounge, cocktail
Restaurant, fast food
School, elementary or secondary
Solid waste transfer station
Water or wastewater treatment plant

Reference Sections:
1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Accessory/Temporary Structure Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Lighting/Noise Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

6. **CG, General Commercial District.** The purpose and intent of the CG district is to encourage the development of an intensive commercial use providing a wide range of goods and services, located adjoining at least one (1) major collector or arterial road that services a consumer market of at least a three (3) mile radius. The CG district corresponds to the Commercial High Intensity (CH) land use designation in the Future Land Use Element of the Comprehensive Plan, or any zoning district corresponding to the underlying alternate density may be applied. The following uses are subject to the Supplementary use standards referenced below.

PERMITTED USES:

Agricultural sales and service
Assembly, nonprofit institutional
Data Information Processing
Fitness center
Fruit and vegetable market
Laundry services
Lounge, cocktail
Medical or dental laboratory
Monument sales, retail
Newsstand or gift shop
Nursery, retail
Nursery, wholesale
Office, business or professional
Park, passive
Personal services
Pottery shop, custom
Printing and copying services
Repair services, limited
Restaurant, general
Restaurant, specialty
Retail sales, general
Shadehouse, accessory
Storage, indoor, agricultural
Vehicle repair & related services, mobile minor
Veterinary, clinic
Vocational school

SPECIAL USES:

Adult entertainment
Amusements, temporary or special events
Retail sales, mobile, temporary or transient
Recycling collection station
Recycling drop off bin
Stand for the sale of agricultural products
Security or caretaker quarters

PERMITTED SUBJECT TO DRC SITE PLAN:

Auction, enclosed
Assembly, nonprofit membership
Broadcasting studio
Day care center, limited
Government services
Grooms quarters
Heliport or helipad
Medical office or dental clinic
Motion picture production studio
Packing plant
Park, public
Parking lot, commercial
Recycling center
Stable, commercial
Upholstery shop
Utility, minor

CONDITIONAL USE, CLASS B:

Agriculture storage, outdoor
Building supplies, retail
Car wash and auto detailing
Cemetery
Church or place of worship
Communication tower, commercial
Congregate living facility, Type 3
Convenience store, no gas sales
Day care center, general
Dispatching office
Entertainment, indoor
Financial institution
Flea market, enclosed
Golf course
Gun club, enclosed

CONDITIONAL USE, CLASS B (cont'd):
Hotel, motel, SRO, boarding & rooming house
Kennel, commercial
Landscape maintenance service
Marine facility
Nursing or convalescent facility
Transportation facility
Vehicle inspection center
Woodworking or cabinetmaking
Zoo

CONDITIONAL USE, CLASS A:
Agriculture, bona fide
Air curtain incinerator, temporary
Auction, outdoor
Automotive paint and body shop
Automotive service station
Arena, auditorium or stadium
Building supplies, wholesale
College or university
Convenience store, with gas sales
Day labor employment service
Electrical power facility
Entertainment, outdoor
Equestrian arena, commercial
Excavation Type III
Flea market, open
Funeral home or crematory
Groves/row corps
Hospital or medical center
Livestock raising
Parking garage, commercial
Repair and maintenance, general
Restaurant, fast food
Self-service storage
Solid waste transfer station
Theater, drive-in
Vehicle sales and rental
Water or wastewater

Reference Sections (CG, General Commercial District):
1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Accessory/Temporary Structure Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Lighting/Noise Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

7. **CRE, Commercial Recreation District**. The purpose and intent of the CRE district is to provide lands for major commercial recreation uses that are either publicly or privately operated, that require large amounts of land and have major effects on adjacent uses. The CRE district corresponds to the Commercial Recreation land use designation in the Future Land Use Element of the Comprehensive Plan, and can be applied only to those areas designated Commercial Recreation (CR), or Industrial (IND) in the Future Land Use Element of the Comprehensive Plan. In some cases the CRE district may be applied in the Rural Residential 10 (RR10) land use designation for those uses identified in the Future Land Use Element of the Comprehensive Plan, or any zoning district corresponding to the underlying alternate density may be applied. The following uses are subject to the Supplementary use standards referenced below.

PERMITTED USES:
Equestrian arena, commercial
Fitness center
Grooms quarters
Gun club, enclosed
Newsstand or gift shop
Nursery, wholesale
Park, passive
Parking lot, commercial
Restaurant, general
Restaurant, specialty
Stable, commercial
Theater, drive-in
Vehicle repair & related services, mobile minor

PERMITTED SUBJECT TO DRC SITE PLAN:
Campground
Day care center, general
Day care center, limited
Entertainment, indoor
Entertainment, outdoor
Government services
Golf course
Heliport or helipad
Hotel , motel, SRO, boarding & rooming house
Packing plant
Park, public
Utility, minor
Zoo

SPECIAL USES:
Amusements, temporary or special events
Recycling drop off bin
Security or caretaker quarters
Stand for the sale of agricultural products

CONDITIONAL USE, CLASS A:
Agriculture, bona fide
Airport
Arena, auditorium or stadium
Electrical power facility
Excavation, Type III
Gun club, open
Livestock raising
Motion picture production studio
Water or wastewater treatment plant

CONDITIONAL USE, CLASS B:
Air curtain incinerator, temporary
Airplane landing strip, accessory
Church or place of worship
Communication tower, commercial
Marine facility

Reference Sections:
1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Accessory/Temporary Structure Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Lighting/Noise Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

F. Industrial districts.

1. Agricultural uses in the Urban Services Area (USA).

a. Applicability. Uses existing at the time of adoption of the ordinance permitting agricultural uses in the urban services area shall be considered to be conforming. Any expansion of existing agricultural uses and any new agricultural uses shall be consistent with all applicable requirements and subject to review by the appropriate staff or review board as identified in the ULDC.

b. Uses. Agricultural uses not listed below as permitted within the Urban Services Area, shall only be permitted with a class A Conditional use approval.

c. Previous development orders. Property which has a development order may also receive an additional development order for a temporary agricultural use in the USA in accordance with the standards enumerated in 6.4.D.(Supplementary use standards) for the specific agricultural use, however, the agricultural use shall not be eligible for an agricultural tax exemption.

2. IL, Light Industrial District. The purpose and intent of the IL district is to provide sufficient lands in appropriate locations for certain types of business, light manufacturing, or processing uses likely to cause undesirable effects upon nearby or adjacent residential or commercial lands. The IL district corresponds to the Industrial (IND) land use designation in the Future Land Use Element of the Comprehensive Plan. The following uses are subject to the Supplementary use standards referenced below.

PERMITTED USES:

Agricultural research/development
Assembly, nonprofit institutional
Assembly, nonprofit membership
Automotive paint and body shop
Broadcasting studio
Data Information Processing
Dispatching office
Fitness center
Government services
Grain milling or processing
Grooms quarters
Groves/row crops
Landscape maintenance service
Machine or welding shop
Manufacturing or processing
Marine facility
Medical or dental laboratory
Monument sales, retail
Motion picture production studio
Nursery, wholesale
Office, business or professional
Park, passive
Parking garage, commercial
Parking lot, commercial
Pottery shop, custom
Printing and copying services
Recycling center
Repair and maintenance, general
Repair services, limited
Restaurant, general
Shadehouse, accessory
Storage, indoor, agricultural
Storage, outdoor, agricultural
Towing service and storage
Upholstery shop
Vehicle inspection center
Vehicle repair & related services, mobile minor
Vocational School
Warehousing
Wholesaling, general

SPECIAL USES:
Adult entertainment
Amusements, temporary or special events
Retail sales, mobile, temporary or transient
Recycling collection station
Recycling drop off bin
Security or caretaker quarters
Stand for the sale of agricultural products

PERMITTED SUBJECT TO DRC SITE PLAN:
Agricultural transhipment
Building supplies, retail
Building supplies, wholesale
Car wash and auto detailing
Communication tower, commercial
Composting facility
Contractor's storage yard
Day care center, limited
Day labor employment service
Entertainment, indoor
Entertainment, outdoor
Funeral home or crematory
Golf course
Gun club, enclosed
Heliport or helipad
Packing plant
Park, public
Self-service storage
Stable, commercial
Transportation facility
Utility, minor
Water or wastewater treatment plant
Woodworking or cabinetmaking

CONDITIONAL USE, CLASS A:
Agriculture, bona fide
Air curtain incinerator,permanent
Electrical power facility
Excavation, Type III
Heavy industry
Livestock raising
Restaurant, fast food
Solid waste transfer station
Vehicle sales and rental

CONDITIONAL USE, CLASS B:
Air curtain incinerator, temporary
Auction, outdoor
Automotive service station
Chipping and mulching
Day care center, general
Equestrian arena, commercial
Flea market, open
Gas and fuel, wholesale
Kennel, commercial
Laboratory, industrial research
Nursery, retail
Potting soil manufacturing
Recycling plant

Reference Sections (IL, Light Industrial District):

1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Supplementary Development Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Performance Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

3. **IG, General Industrial District**. The purpose and intent of the IG district is to provide lands in appropriate locations for those uses with one (1) or more of the following characteristics: industrial processes that involve significant amounts of heat, mechanical and chemical processing; large amounts of material transfer; and large scale structures. The IG district provides for those industrial uses that are not located in a planned industrial park, as well as permitting such planned uses. Such industrial uses are to be located with convenient access to transportation facilities. The IG district corresponds to the Industrial (IND) land use designation in the Future Land Use Element of the Comprehensive Plan. The following uses are subject to the Supplementary use standards referenced below.

PERMITTED USES:
Agriculture, bona fide
Agricultural research/development
Agricultural transhipment
Automotive paint and body shop
Building supplies, wholesale
Contractor's storage yard
Data Information Processing
Day labor employment service
Dispatching office
Government services
Grain milling or processing
Grooms quarters
Groves/row crops
Gun club, enclosed
Laboratory, industrial research
Machine or welding shop
Manufacturing or processing
Marine facility
Motion picture production studio
Nursery, wholesale
Office, business or professional
Park, passive
Pottery shop, custom
Recycling center
Repair and maintenance, general
Repair services, limited
Restaurant, general
Shadehouse, accessory
Storage, indoor, agricultural
Storage, outdoor, agricultural
Sugar mill or refinery
Towing service and storage
Upholstery shop
Vehicle repair & related services, mobile minor
Vocational School
Warehousing

PERMITTED USES (cont'd):
Wholesaling, general
Woodworking or cabinetmaking

SPECIAL USES:
Adult entertainment
Recycling collection station
Recycling drop off bin
Security/caretaker quarters
Stand for the sale of agricultural products

PERMITTED SUBJECT TO DRC SITE PLAN:
Automotive service station
Asphalt or concrete plant
Chipping and mulching
Communication tower, commercial
Composting facility
Day care center, limited
Gas and fuel, wholesale
Heavy industry
Heliport or helipad
Packing plant
Park, public
Potting soil manufacturing
Recycling plant
Self-service storage
Stable, commercial
Transportation facility
Utility, minor
Water or wastewater treatment plant

CONDITIONAL USE, CLASS A:

Airport
Air curtain incinerator, permanent
Electrical power facility
Excavation, Type III
Livestock raising
Salvage or junk yard

CONDITIONAL USE, CLASS B:

Air curtain incinerator, temporary
Airplane landing strip, accessory
Day care center, general
Equestrian arena, commercial
Nursery, retail
Solid waste transfer station

Reference Sections (IG, General Industrial District):

1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Supplementary Development Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Performance Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

G. Public ownership district.

1. **PO, Public Ownership District**. The purpose and intent of the PO district is to provide a coordinated land planning approach to the sale, rent, lease, purchase, management, or alteration of publicly owned or operated lands. Notwithstanding those public uses permitted elsewhere in this Code, the PO district is primarily concerned with, although not limited to, the enlightened planning of parks and recreation areas, public buildings and facilities, and other capital improvements of a distinctly significant nature. The PO district corresponds to all land use categories in the Future Land Use Element of the Comprehensive Plan. The following uses are subject to the Supplementary use standards referenced below.

PERMITTED USE:

Assembly, nonprofit institutional
Campground
College or university
Electrical power facility
Gas and fuel, wholesale
Government services
Heliport or helipad
Hospital or medical center
Park, passive
Park, public
Parking lot, commercial
Recycling center
School, elementary or secondary
Transportation facility

PERMITTED USE (cont'd):

Vehicle inspection center
Vehicle repair & related services, mobile minor
Water or wastewater treatment plant
Zoo

SPECIAL USE:

Air curtain incinerator, temporary
Retail sales, mobile, temporary or transient
Recycling drop off bin
Security or caretaker quarters

PERMITTED SUBJECT TO DRC SITE PLAN:

Arena, auditorium or stadium
Chipping and mulching
Communication tower, commercial
Composting facility
Day care center, general
Day care center, limited
Gun club, enclosed
Marine facility
Potting soil manufacturing
Utility, minor

CONDITIONAL USE, CLASS A:

Air curtain incinerator, permanent
Airport
Excavation, type III

CONDITIONAL USE, CLASS B:

Cemetery
Golf course
Gun club, open
Recycling plant
Solid waste transfer station

Reference Sections:

1) Supplementary Use Standards -- See Section 6.4.D
2) Property Development Regulations -- See Section 6.5
3) Accessory/Temporary Structure Standards -- See Section 6.6
4) Off-street Parking/Loading -- See Section 7.2
5) Landscaping -- See Section 7.3
6) Lighting/Noise Standards -- See Section 7.8
7) Signs -- See Section 7.14
8) Vegetation Protection -- See Section 7.5

H. Overlay districts.

1. **NE-O, Native Ecosystem Overlay District**. The purpose and intent of the NE-O district is to ensure the protection of environmentally sensitive lands while ensuring development options by permitting flexibility in development regulations.

2. **WCRA-O, Westgate/Belvedere Homes Overlay District**. The Westgate/ Belvedere Homes Community Redevelopment Agency (Westgate/Belvedere Homes CRA) was created pursuant to Sec. 163.330, et. seq., Fla. Stat., to remove blight conditions, enhance the County's tax base, improve the living conditions, and preserve areas of low and moderate cost housing in the Westgate/Belvedere Homes area. The use of community redevelopment powers enables the Board of County Commissioners and the Westgate/Belvedere Homes CRA to make public improvements which encourages and enhances private investment and neighborhood stability, prevents continuation of inefficient and incompatible land use patterns, and assists revitalization and rehabilitation of older commercial and residential areas in the Westgate/Belvedere Homes area. In recognition of the special needs of the Westgate/Belvedere Homes area, the WCRA-O district is established with the purpose and intent of encouraging development and redevelopment of the Westgate/Belvedere Homes area through regulatory incentives; arresting deterioration of property values; preserving existing, viable affordable housing and providing opportunity for the future development of affordable housing; implementing the Westgate/Belvedere Homes Community Redevelopment Plan; and under certain circumstances, providing for increased residential densities and an increase of up to twenty (20) percent in the amount of land designated as commercial on the Land Use Atlas Map without amendment to the Comprehensive Plan.

3. **R&T-O, Research and Technology Overlay District**. The purpose and intent of the R&T-O district is to protect critical manufacturing employers from the encroachment of incompatible uses and activities; provide opportunities to locate accessory, auxiliary and supporting industrial land uses in close proximity to existing manufacturing facilities; and ensure the location of compatible adjacent uses and activities in the district that complement manufacturing and high-tech operations that are related to the continuation and future development of the County's manufacturing and industrial base. The R&T-O district implements the Comprehensive Plan provisions related to the Pratt-Whitney Overlay. Additionally, all development within the R&T-O district shall promote efficient and economical industrial uses; promote compatible industrial use linkages by process, production or service; be compatible with surrounding uses and activities; preserve and protect natural features and native vegetation so as to prevent ecological damage in part through the location of buildings and land use intensities; and encourage the continuation and future development of the County's manufacturing and industrial base.

4. **GA-O, Glades Area Economic Development Overlay District**. The purpose and intent of the GA-O district is to provide flexibility in the range of uses and land development regulations allowed in the underlying districts in the Glades area and to accommodate uses which, if deemed appropriate, will increase job opportunities and improve the economic vitality of the area. In addition, the GA-O district shall provide a set of regulations that recognize the character of the area.

5. **PBIA-O, Palm Beach International Airport Overlay District**. The PBIA-O district recognizes that lands surrounding the Palm Beach International Airport are most suitable for campus-style industrial development over the long-term. The purposes and intent of the PBIA-O district are to protect neighborhoods surrounding the Palm Beach International Airport from incompatible land development; to protect airport operations from incompatible land development, and provide regulations that will assure safe, unobstructed access for all aircraft which enter and exit the airport; to allow land owners to initiate conversion to industrial uses where appropriate; and to allow land owner participation in the land use decision-making process.

6. **IOZ, Indiantown Road Overlay District**. The purpose and intent of the Indiantown Road Overlay Zoning District (IOZ) is intended to implement the site development regulations of uses within the established Indiantown Road Corridor Study Area pursuant to the interlocal agreement adopted between Palm Beach County and the Town of Jupiter. The Town has adopted the IOZ pursuant to the recommendation of the Indiantown Road corridor Study and Chapter 163, Part II Florida Statutes. The purpose of the IOZ is to protect residential neighborhoods, limit uses, improve the overall aesthetics of the Indiantown Road corridor, and establish development incentives to accomplish the various objective of the corridor study. Through the interlocal agreement the Town and County have provided for a means of intergovernmental cooperation in implementing the IOZ standards throughout all appropriate incorporated and unincorporated portions of the Indiantown Road corridor and in accordance with Florida Statutes Chapter 163, Part IV. The Town and County agree to use a joint review process to advance the public health, safety, and general welfare and adopt procedures for the joint administration of land development regulations.

7. **COZ, Conditional Overlay District.** The purpose and intent of the COZ district is to modify and restrict the use and site development regulations otherwise authorized in the base district. All requirements of a COZ district are in addition to and supplement all other applicable requirements of this Land Development Code. Restrictions imposed by the COZ district shall mitigate potential impact and assure compatibility to surrounding land uses.

I. Planned development districts.

1. **PUD, Residential Planned Unit Development District.** The purpose of the PUD district is to offer a residential development alternative which: allows an opportunity for a limited amount of commercial uses; and, corresponds to a range of residential land use categories on the Comprehensive Plan Land Use Atlas.

   The intent of the PUD is to promote the design of largely residential living environments which provide enlightened and imaginative approaches to community planning and shelter design. These approaches include but are not limited to:

   a. The preservation of natural features and scenic areas;

   b. The integration and connection of land uses with perimeter landscape areas which provide vegetation preservation, buffering, and circulation areas;

   c. The creation of a continuous non-vehicular circulation system;

   d. The establishment of civic, commercial and recreation land uses;

   e. The reduction of land consumption by roads; and,

   f. The provision for flexible property development regulations to promote innovative and quality site design.

2. **TND, Traditional Neighborhood Development District.** The purpose and intent of the TND district is to implement the Traditional Neighborhood Development Land Use Category of the Comprehensive Plan and to:

   a. Provide a range of residential, commercial, and light industrial land uses;

   b. Lessen existing imbalances in land uses within a specified planning area;

   c. Encourage internal automobile trip capture;

   d. Offer a range of housing opportunities;

   e. Introduce a variety of architectural solutions for current development problems;

   f. Preserve natural features and scenic areas;

g. Design safe and efficient circulation systems for pedestrians, non-motorized vehicles, and automobiles;

h. Utilize perimeter landscape and edge areas to connect the various land uses and land use zones within neighborhoods, edge areas and the surrounding communities; and,

i. Establish a neighborhood identity and focus.

3. **MXPD, Mixed-Use Planned Development District.** The purpose of the MXPD district is twofold: (1) Promote the design of mixed-use developments for land which has a commercial designation on the Land Use Atlas, see Table 6.8-1, Planned Development District Densities and Corresponding Land Use Categories or a commercial land use zone designation within a PUD or PIPD; and, (2) Provide for the compatible integration of residential uses and commercial uses into a unified development.

   The intent of the MXPD is to provide for the compatible development and integration of nonresidential uses and residential uses with enlightened and imaginative approaches to community planning, including but not limited to:

   a. The use of vertical or horizontal integration with residential and commercial uses;

   b. The selection of land uses which encourages internal automobile trip capture and compatibility with residential uses;

   c. The design of a site development plan which provides for the compatible cohabitation of residential and commercial uses;

   d. The use of flexible property development regulations;

   e. The design of safe and efficient circulation systems for pedestrians, bicycles, and automobiles;

   f. The utilization of multiple family homes to provide a transition area between commercial uses and adjacent residential development; and,

   g. The incorporation of perimeter landscape areas into the site development plan to connect, buffer and define the various land uses and land use zones within a MXPD.

4. **MUPD, Multiple Use Planned Development District.** The purpose of the MUPD district is twofold: (1) to promote the design of unified, multiple use developments for land which has a rural residential 10, commercial, industrial, or commercial recreation designation on the Land Use Atlas, see Table 6.8-1, Planned Development District Densities and Corresponding Land Use Categories; and, (2) to provide for the efficient use of land by the integration of multiple uses within a single development.

   The intent of the MUPD is to provide for the development of multiple nonresidential uses with enlightened and imaginative approaches to community planning, including but not limited to:

a. Allowing flexibility of certain property development regulations;

b. Applying certain property development regulations to the entire MUPD rather than individual lots, such as but not limited to:

(1) Access;
(2) Parking;
(3) Lot size and dimensions;
(4) Lot frontage;
(5) Landscaping; and

c. Designing for architectural compatibility between land uses for buildings and signage.

5. **PIPD, Planned Industrial Park Development District.** The purpose of a PIPD is to offer an industrial development alternative which: provides employment opportunities; and, encourages internal automobile trip capture by offering justifiable amounts of commercial and residential uses.

The intent of the PIPD is to promote the design of planned industrial developments which provide enlightened and imaginative approaches to community planning and site design. These approaches, include but are not limited to:

a. The preservation of natural features, scenic areas and native vegetation;

b. The promotion of efficient and economical industrial land use districts;

c. The encouragement of industrial linkages by process, product, or service;

d. The provision of on-site essential services for industries, employees, and clients;

e. The protection of nearby existing and future non-industrial land uses and activities;

f. The arrangement of buildings and land use intensities, as they relate to surrounding land uses to minimize and mitigate negative impacts;

g. The location of the PIPD near convenient access to transportation facilities such as interstate highways, major trucking routes, shipping and/or railroad lines; and,

h. The encouragement of industrial expansion to the County's economic base through new investment.

6. **MHPD, Mobile Home Park Planned Development District.** The purpose of the MHPD district is to offer a mobile home residential development alternative which: 1. Allows a limited amount of commercial uses; and, 2. Corresponds to a range of residential land use designations on the Land Use Atlas.

The intent of the MHPD is to promote the efficient design of mobile home communities which provide enlightened and imaginative approaches to community planning and, accommodate the

housing needs of those residents who prefer mobile home living and of those who desire an economic alternative to conventional dwellings. These approaches, include but are not limited to:

a. The preservation of natural features and scenic areas;

b. The reduction of land consumption by roads;

c. The creation of a continuous non-vehicular circulation systems;

d. The designation of perimeter landscape areas which provide preservation, buffering, and circulation areas; and,

e. The establishment of neighborhood commercial service uses and recreation areas.

7. **RVPD, Recreational Vehicle Park Planned Development District.** The purpose of the RVPD district is twofold: 1. Promote the design of unified, recreational use developments for land which has a commercial, industrial or commercial recreation designation on the Land Use Atlas, see Table 6.8-1, Planned Development District Densities and Corresponding Land Use Categories.

   The intent of the RVPD is to provide for the development of recreational vehicle parks which offer limited habitation on site (no permanent residence) and which provide enlightened and imaginative approaches to community planning, including but not limited to:

   a. Providing a tourist oriented, park-like environment; and,

   b. Locating near an established recreational resource to allow convenient access for tourists.

8. **SWPD, Solid Waste Disposal Planned Development District.** The purpose of the SWPD district is twofold: 1. Regulate the placement of developments designed to store, process, transfer or dispose of solid waste in any land use category, see Table 6.8-1, Planned Development District Densities and Corresponding Land Use Categories; and, 2. Permit only those land uses which are consistent with the County-wide Solid Waste Management Plan.

   The intent of the SWPD is to ensure the development of solid waste facilities which mitigate negative impacts and incorporate enlightened and imaginative approaches to community planning, including but not limited to:

   a. The protection of the public health, safety and welfare regarding air, noise and water pollution;

   b. The prevention of the use of the land as an uncontrolled receptacle for improperly treated wastes;

   c. The conservation of the value of land, buildings and resources;

   d. The protection of the character and maintenance of the stability of residential, agricultural, business and industrial areas;

e. The provision of the appropriate and best use of land;

f. The provision for preservation, protection, development and conservation of the natural resources of land, water and air;

g. The provision for convenience of traffic and circulation of people and goods;

h. The enhancement of the environment; and,

i. The recovery of resources that have the potential of further use.
[Ord. No. 93-4; February 2, 1993] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-8; March 21, 1995]

SEC. 6.3 ZONING MAP AND DISTRICT BOUNDARIES.

A. **Establishment of Official Zoning Map.** The location and boundaries of the districts established in this article shall be set forth on the Official Zoning Map of Palm Beach County which is incorporated herein by reference into this article as if fully described and set forth herein. A copy of the Official Zoning Map shall be located at all times for inspection by the general public during regular business hours in the offices of the PZB Department.

B. **Amendment to the Official Zoning Map.** If pursuant to the terms of this Code, amendments are made to the boundaries of the Official Zoning Map, such amendments shall be entered on the Official Zoning Map by the Zoning Director within twenty (20) working days after the amendment.

C. **Replacement of Official Zoning Map.**

1. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Board of County Commissioners shall adopt a new Official Zoning Map that shall supersede the prior Official Zoning Map.

2. The new Official Zoning Map may correct drafting and clerical errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the original Official Zoning Map or subsequent amendments thereto without a duly noticed public hearing pursuant to the procedures and standards of this Code.

SEC. 6.4 USE REGULATIONS AND DEFINITIONS.

A. General. Uses permitted by right, permitted subject to Site Plan/Final Subdivision Plan, as a Special use or as a Conditional use in each district shall be determined from the Use Regulations Schedule (Table 6.4-1). The use regulations within overlay districts shall be determined by the uses allowed in the underlying base districts, as may be modified by Sec. 6.7 (Overlay District Regulations). Additional use regulations for the Planned Development districts are specified in Sec. 6.8 (Planned Development District Regulations).

B. Use classification. The list of use classifications included in the Use Regulations Schedule (Table 6.4-1) is intended to classify uses on the basis of common functional characteristics and land use compatibility. Other uses not specifically listed in the Use Regulations Schedule, but exhibiting similar characteristics to a listed use shall be so classified by the interpretation of the Executive Director of PZB pursuant to the procedures and standards of Art. 2, Interpretation.
[Ord. No. 95-8]

C. Use regulations schedule. The Use Regulations Schedule contained in Table 6.4-1 shall be interpreted as follows.

1. **Permitted by right.** Uses identified in a particular district column with a "P" are "permitted by right" and shall be permitted in such district, subject to such supplementary use standards as may be indicated in the "Note" column and subject to the other requirements of this Code. Uses identified with a "P" may be subject to Site Plan/Final Subdivision Plan review if specifically required by other provisions of this Code. Prior to receipt of a Certificate of Occupancy, all required permits from affected regulatory agencies must be obtained and the use must operate in accordance with those permits.

2. **Site plan/final subdivision plan.** Uses identified in a particular district column with a "D" are "permitted subject to Site Plan/Final Subdivision Plan review" and shall be permitted in such district only if a Site Plan/Final Subdivision Plan is submitted and approved in compliance with the provisions of this Code for the use by the Development Review Committee in accordance with the procedures and standards of Sec. 5.6, Site Plan/Final Subdivision Plan, subject to such supplementary use standards as may be indicated in the "Note" column of the Use Regulations Schedule tables of Secs. 6.4 and 6.8, and the other standards of this Code. Prior to receipt of a Certificate of Occupancy, all required permits from affected regulatory agencies must be obtained and the use must operate in accordance with those permits.

3. **Special use.** Uses identified in a particular district column with an "S" are "special uses" and shall be permitted in such district only if they meet the supplementary use standards indicated in the "Note" column for the use and are approved by the Zoning Director in accordance with the procedures and standards of Sec. 5.5 (Special Permit Uses), and subject to the other standards of this Code. Prior to receipt of a Certificate of Occupancy, all required permits from affected regulatory agencies must be obtained and the use must operate in accordance with those permits.

4. **Conditional use, Class B.** Uses identified in a particular district column with a "B" are "Class B conditional uses" and shall be permitted in such district only if they are approved by the Zoning Commission in accordance with the procedures and standards of Sec. 5.4.F (Class "B" Conditional uses), subject to such supplementary use standards as may be indicated in the "Note" column, and the other standards of this Code. Prior to receipt of a Certificate of Occupancy, all required permits from affected regulatory agencies must be obtained and the use must operate in accordance with those permits.

5. **Conditional use, Class A.** Uses identified in a particular district column with a "A" are "Class A conditional uses" and shall be permitted in such district only if they are approved by the Board of County Commissioners in accordance with the procedures and standards of Sec. 5.4.E (Class "A" Conditional uses), subject to such supplementary use standards as may be indicated in the "Note"

column, and the other standards of this Code. Prior to receipt of a Certificate of Occupancy, all required permits from affected regulatory agencies must be obtained and the use must operate in accordance with those permits.

6. **Prohibited uses**. Uses not identified in a particular district column as permitted by right, as a Conditional use, or a Special use, are not allowed in such district unless otherwise expressly permitted under this Code.

7. **Supplementary use standards**. A number in the "Note" column refers to supplementary use standards applicable to a particular use in one (1) or more of the districts in which such use is allowed. For Planned Developments, the term district means the land use category. The referenced standards appear in Sec. 6.4. (Supplementary use standards). For example, note 53 refers to Sec. 6.4.D.53.

8. **Uses located in Overlay Zones.** Uses proposed to be located in overlay zones may be subject to additional regulations. Reference should be made to Sec. 6.7 of this Code to ensure no additional regulations apply.

9. **District Specific Regulations.** Within certain zoning districts, special standards apply. Reference should be made to Sec. 6.5 to determine if a use is subject to additional regulations.

[Ord. No. 93-4] [Ord. No. 95-8]
[Ord. No. 93-4; February 2, 1993] [Ord. No. 95-8; March 21, 1995]

THIS PAGE INTENTIONALLY LEFT BLANK

TABLE 6.4-1
USE REGULATIONS SCHEDULE

Use Type	Zoning District																							
	Agriculture/ Conservation					Residential										Commercial						Indust/ Public			
	PC	AGR	AP	SA	RSER	AR RURAL	AR USA	CRS	RE	RT	RTS	RTU	RS	RM	RH	CN	CLO	CC	CHO	CG	CRE	IL	IG	PO	NOTE
Residential uses																									
Single-family		P				P	P	P	P	P	P	P	P	P	P										88
Zero lot line home												A	D	D	D										103
Townhouse												A	D	D	D										95
Multi-family														P	P										65
Mobile home dwelling						S		S																	62
Accessory dwelling		S	S	S		S	S	S	S	S	S	S	S	S	S										1
Congregate living facility, Type 1						P	P	P	P	P	P	P	P	P	P										24
Congregate living facility, Type 2					D	A	A	A					A	B	B	B									24
Congregate living facility, Type 3													A	A	A	A		A		B					24
Estate kitchen		P	P	P		P	P	P	P	P	P	P	P	P	P										34.1
Farm residence		P	P	P																					36
Farm tenant quarters		P	P	P																					37
Garage sale		P	P	P		P	P	P	P	P	P	P	P	P	P										44
Grooms quarters		S	S	S	S	S	S	S	S	S	A	A	A	A	A	B	B	D	D	D	P	P	P		47
Guest cottage		P	P	P		P	P	P	P	P	P	P	P	P	P										44
Home occupation		P	P	P		P	P	P	P	P	P	P	P	P	P										50
Migrant farm labor quarters		D	D	D																					61
Nursing or convalescent facility					A							A	A	A	A	A		A		B					67
Security or caretaker quarters		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	86

P = Permitted S = Special Use D = Permitted Subject to DRC Site Plan
B = Conditional Use, Class B (ZC Approval) A = Conditional Use, Class A (BCC Approval)
USA = Urban Services Area RURAL = Rural Area
NOTE = Use Regulations contained in Sec. 6.4.D.

TABLE 6.4-1
USE REGULATIONS SCHEDULE

Use Type	Zoning District																						NOTE
	Agriculture/ Conservation					Residential										Commercial						Indust/ Public			
	PC	AGR	AP	SA	RSER	AR RURAL	AR USA	CRS	RE	RT	RTS	RTU	RS	RM	RH	CN	CLO	CC	CHO	CG	CRE	IL	IG	PO	
Agricultural uses																									
Agricultural research/development		D	D	D																		P	P		3
Agricultural sales and service		B	B	A	B															P					4
Agricultural transshipment		D	D	A																		D	P		5
Agriculture, bona fide		P	P	P		P	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		6
Aviculture		P	P	P		P																			15.1
Community vegetable garden												D	D	D	D										22.1
Equestrian arena, commercial		D		D	D	B	B	B	B	B	B	A	A	A	A	A	A	A	A	A	P	B	B		34
Groves/row crops							D	D	B	B	B	A	A	A	A	A		A		A		P	P		47.1
Kennel, commercial				A	D															B		B			53
Kennel, private				P		D	D	B	B	A	A	A	A	A	A										54
Livestock raising							D	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		56.1
Nursery, retail		P		D	P	A	A	A	A	A	A	A	A	A	A	P		P		P		B	B		66.1
Nursery, wholesale		P	P	D	P	D	D	D	B	B	B	B	B	B	B	B	B	P	P	P	P	P	P		66.2
Packing plant						B	B	A	A	A	A	A	A	A	A	A	A	B	B	D	D	D	D		68.1
Potting soil manufacturing		D	D	A																		B	D	D	73
Shadehouse, accessory						P	P	P	P	P	P	P	P	P	P	P		P		P		P	P		87.1

P = Permitted S = Special Use D = Permitted Subject to DRC Site Plan
B = Conditional Use, Class B (ZC Approval) A = Conditional Use, Class A (BCC Approval)
USA = Urban Services Area RURAL = Rural Area
NOTE = Use Regulations contained in Sec. 6.4.D.

Use Type	Zoning District																								NOTE
	Agriculture/ Conservation					Residential										Commercial						Indust/ Public			
	PC	AGR	AP	SA	RSER	AR RURAL	AR USA	CRS	RE	RT	RTS	RTU	RS	RM	RH	CN	CLO	CC	CHO	CG	CRE	IL	IG	PO	
Agricultural uses																									
Stable, commercial		D	D	D	D	D	D	B	A	A	A	A	A	A	A	B	B	D	D	D	P	D	D		90
Stable, private		P	P	P	P	P	P	P	P	B	B	B	B	B	B	B									91
Stand for the sale of ag. products		S	S	S	S	S	S	S								S	S	S	S	S	S	S	S		92
Storage, indoor agricultural						P	P	D	D	D	D	D	D	D	D	P		P		P		P	P		92.1
Storage, outdoor agricultural						P	P	B	B	B	B	B	B	B	B	B		B		B		P	P		92.1
Sugar mill or refinery			P	A																			P		93

P = Permitted S = Special Use D = Permitted Subject to DRC Site Plan
B = Conditional Use, Class B (ZC Approval) A = Conditional Use, Class A (BCC Approval)
USA = Urban Services Area RURAL = Rural Area
NOTE = Use Regulations contained in Sec. 6.4.D.

TABLE 6.4-1
USE REGULATIONS SCHEDULE

Use Type	Zoning District																						NOTE
	Agriculture/ Conservation					Residential									Commercial						Indust/ Public			
	PC	AGR	AP	SA	RSER	AR RURAL	AR USA	CRS	RE	RT	RTS	RTU	RS	RM	RH	CN	CLO	CC	CHO	CG	CRE	IL	IG	PO	
Public and civic uses																									
Airplane landing strip, accessory		B	B		B	B															B		B		9
Airport																					A		A	A	9
Assembly, nonprofit institutional			D		B	A							A	A	A	A		B		P		P		P	12
Assembly, nonprofit membership					B													B		D		P			12
Cemetery			D	B		A	A		A	A	A	A	A	A	A					B				B	19
Church or place of worship			B	A	B	A	A	A	A	A	A	A	A	A	A	A	A	A	B	B	B				21
College or university					A	A	A	A										A	A	A				P	
Day care center, general					A	A	A	A	A	A	A	A	A	A	A	A	A	A	B	B	D	B	B	D	28
Day care center, limited		D	D	B	D	A	A	A	A	A	A	A	A	B	B	B	B	D	D	D	D	D	D	D	28
Government services		D	D	B	B	A	A	A	A	A	A	A	A	A	A	D	D	D	D	D	D	P	P	P	46
Heliport or helipad		D	D			A	A		A	A	A			A					D	D	D	D	D	P	9
Hospital or medical center				A	A													A	A	A				P	52
Park, public	D	B	B	D	D	B	B	B	A	A	A	A	A	B	B	B		D		D	D	D	D	P	70
School, elementary or secondary			A	A	A	A	A	A	A	A	A	A	A	A	A			A	A					P	85
Transportation facility																				B		D	D	P	

P = Permitted S = Special Use D = Permitted Subject to DRC Site Plan
B = Conditional Use, Class B (ZC Approval) A = Conditional Use, Class A (BCC Approval)
USA = Urban Services Area RURAL = Rural Area
NOTE = Use Regulations contained in Sec. 6.4.D.

TABLE 6.4-1
USE REGULATIONS SCHEDULE

Use Type	Zoning District																						NOTE
	Agriculture/ Conservation					Residential										Commercial						Indust/ Public			
	PC	AGR	AP	SA	RSER	AR RURAL	AR USA	CRS	RE	RT	RTS	RTU	RS	RM	RH	CN	CLO	CC	CHO	CG	CRE	IL	IG	PO	
Utilities																									
Air curtain incinerator, permanent		A	A	A																		A	A	A	7
Air curtain incinerator, temporary		S	S	S	S	S	S	A	A	A	A	A	A	A	A	A	A	A	A	A	B	B	B	S	8
Chipping and mulching		B	B	A																		B	D	D	20
Communication tower, commercial	A	B	D	A	B	A	A	A	A	A	A	A	A	A	A	A	A	B	B	B	B	D	D	D	22
Composting facility		D	D	B																		D	D	D	23
Electrical power facility		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	P	31
Incinerator																									84
Recycling center																A		B		D		P	P	P	
Recycling collection station					S											D		S		S		S	S		74
Recycling drop off bin		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	75
Recycling plant																						B	D	B	76
Sanitary landfill																									84
Solid waste transfer station		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	B	B	89
Utility, minor		D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	96
Water or wastewater treatment plant		B	B	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	D	D	P	101

P = Permitted S = Special Use D = Permitted Subject to DRC Site Plan
B = Conditional Use, Class B (ZC Approval) A = Conditional Use, Class A (BCC Approval)
USA = Urban Services Area RURAL = Rural Area
NOTE = Use Regulations contained in Sec. 6.4.D.

TABLE 6.4-1
USE REGULATIONS SCHEDULE

Use Type	Zoning Districts																						NOTE
	Agriculture/ Conservation					Residential									Commercial						Indust/ Public			
	PC	AGR	AP	SA	RSER	AR RURAL	AR USA	CRS	RE	RT	RTS	RTU	RS	RM	RH	CN	CLO	CC	CHO	CG	CRE	IL	IG	PO	
Recreational uses																									
Amusements, temporary or Special events				S	S	S										S		S		S	S	S			10
Arena, auditorium or stadium					A													A		A	A			D	11
Campground	D			D	D																D			P	17
Entertainment, indoor																A		A		B	D	D			32
Entertainment, outdoor					A													A		A	D	D			33
Fitness center														B	B	B		D	P	P	P	P			39
Golf course					A			A	A	A	A	A	A	A	A			A		B	D	D		B	45
Gun club, enclosed			D	A	D															B	P	D	P	D	48
Gun club, open			D	A	A																A			B	48
Gun range, private		D	D	D		A																			49
Marine facility																			B	B	B	P	P	D	59
Park, passive	P	P	P	P	P	D	D	D	D	D	D	D	D	D	D	D	P	P	P	P	P	P	P	P	69
Zoo				B	B	A														B	D			P	104

P = Permitted S = Special Use D = Permitted Subject to DRC Site Plan
B = Conditional Use, Class B (ZC Approval) A = Conditional Use, Class A (BCC Approval)
USA = Urban Services Area RURAL = Rural Area
NOTE = Use Regulations contained in Sec. 6.4.D.

TABLE 6.4-1
USE REGULATIONS SCHEDULE

Use Type	Zoning District																							NOTE
	Agriculture/ Conservation					Residential										Commercial						Indust/ Public			
	PC	AGR	AP	SA	RSER	AR RURAL	AR USA	CRS	RE	RT	RTS	RTU	RS	RM	RH	CN	CLO	CC	CHO	CG	CRE	IL	IG	PO	
Commercial uses																									
Adult entertainment																				S		S	S		2
Auction, enclosed					A													B		D					13
Auction, outdoor					A															A		B			13
Automotive paint or body shop																				A		P	P		14
Automotive service station																		A		A		B	D		15
Bed and Breakfast					A	S	S	S	S	S	S	S	S	S	S										16
Broadcasting studio																		B	D	D		P			
Building supplies, retail					B											B				B		D			
Building supplies, wholesale																				A		D	P		
Car wash and auto detailing																		A		B		D			18
Contractor's storage yard					D																	D	P		25
Convenience store, no gas sales																A		A		B					26
Convenience store with gas sales																		A		A					27
Day labor employment service																				A		D	P		29
Dispatching office					D															B		P	P		30
Financial institution																D	D	B	B	B					38
Flea market, enclosed																				B					40
Flea market, open																				A		B			41
Fruit and vegetable market		D		P	P	A										P		P		P					42

Use Type	Zoning District																								NOTE
	Agriculture/ Conservation					Residential										Commercial						Indust/ Public			
	PC	AGR	AP	SA	RSER	AR RURAL	AR USA	CRS	RE	RT	RTS	RTU	RS	RM	RH	CN	CLO	CC	CHO	CG	CRE	IL	IG	PO	
Commercial uses																									
Funeral home or crematory					B										A		A		A		D			43
Gas and fuel, wholesale					B																B	D	P	
Hotel, motel, SRO, Boarding & Rooming House														A				B	B	D				51
Landscape maintenance service		B		A	B	A													B		P			55
Laundry services															B	D	D	P	P					56
Lounge, cocktail															A		A	A	P					57
Medical office or dental clinic		B	B	B	B										A	A	B	D	D					60
Medical or dental laboratory																		B	P		P			
Monument sales, retail																			P		P			
Newsstand or gift shop															P	P	P	P	P	P				66
Office, business or professional															P	P	P	P	P		P	P		68
Parking garage, commercial																			A		P			71
Parking lot, commercial																	B	B	D	P	P		P	71
Personal services															P	P	P	P	P					72
Printing and copying services															P	P	P	P	P		P			
Repair and maintenance, general					A														A		P	P		77
Repair services, limited					B										P	P	P	P	P		P	P		78
Restaurant, fast food																	A	A	A		A			79
Restaurant, general															D	B	P	B	P	P	P	P		80
Restaurant, specialty															P	D	P	P	P	P				81

Use Type	Zoning District																							NOTE
	Agriculture/ Conservation					Residential										Commercial						Indust/ Public			
	PC	AGR	AP	SA	RSER	AR RURAL	AR USA	CRS	RE	RT	RTS	RTU	RS	RM	RH	CN	CLO	CC	CHO	CG	CRE	IL	IG	PO	
Commercial uses																									
Retail sales, general																P		P		P					82
Retail sales, mobile, temporary or transient				S		S												S		S		S		S	83
Self-service storage																		A		A		D	D		87
Theater, drive-in																				A	P				94
Towing service and storage																						P	P		
Upholstery shop																				D		P	P		
Vehicle inspection center																		A		B		P		P	
Vehicle repair & related services, mobile minor			P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	97.1
Vehicle sales and rental																		A		A		A			97
Veterinary clinic		B	P	B	D	B	B	B								A	A	P	B	P					98
Vocational school					B													B	P	P		P	P		99
Wholesaling, general																						P	P		102

P = Permitted S = Special Use D = Permitted Subject to DRC Site Plan
B = Conditional Use, Class B (ZC Approval) A = Conditional Use, Class A (BCC Approval)
USA = Urban Services Area RURAL = Rural Area
NOTE = Use Regulations contained in Sec. 6.4.D.

TABLE 6.4-1
USE REGULATIONS SCHEDULE

Use Type	Zoning District																						NOTE
	Agriculture/ Conservation					Residential									Commercial						Indust/ Public			
	PC	AGR	AP	SA	RSER	AR RURAL	AR USA	CRS	RE	RT	RTS	RTU	RS	RM	RH	CN	CLO	CC	CHO	CG	CRE	IL	IG	PO	
Industrial uses																									
Asphalt or concrete plant																							D		
Data Information Processing																	D		P	P		P	P		
Excavation, Type III			A	A																A	A	A	A	A	35
Grain milling or processing		B	P	P																		P	P		
Heavy industry																						A	D		
Laboratory, industrial research																						B	P		
Machine or welding shop																						P	P		58
Manufacturing and processing																						P	P		
Motion picture production studio																			D	D	A	P	P		64
Pottery shop, custom																				P		P	P		
Salvage or junk yard																							A		
Warehousing																						P	P		100
Woodworking or cabinetmaking																				B		P	P		

P = Permitted S = Special Use D = Permitted Subject to DRC Site Plan
B = Conditional Use, Class B (ZC Approval) A = Conditional Use, Class A (BCC Approval)
USA = Urban Services Area RURAL = Rural Area
NOTE = Use Regulations contained in Sec. 6.4.D.

Table 6.4-2

THRESHOLDS FOR PROJECTS REQUIRING DEVELOPMENT REVIEW COMMITTEE (DRC) APPROVAL	
ZONING DISTRICTS	**MAXIMUM NUMBER OF S.F. OR UNITS**
RM	20 du
RH	20 du
CN	5,000 sf
CLO	5,000 sf
CC	8,000 sf
CHO	8,000 sf
CG	15,000 sf
CRE	15,000 sf
IL	20,000 sf
IG	25,000 sf
PO	25,000 sf/20 du
ALL OVERLAY DISTRICTS	All new construction

Projects requiring Development Review Committee (DRC) Approval:

1. **Projects requiring DRC site plan certification prior to submittal of a building permit application.** Pursuant to the procedures of Article 5, DRC site plan certification is required for projects as follows:

   a. Any proposed development with a "D" in Table 6.4-1, Use Regulation Schedule;
   b. Any development in an Overlay Zone;
   c. Development which received conditional use or planned development district approval;
   d. Any amendment to a previously approved site plan; and
   e. New construction that creates, meets or exceeds the Maximum Intensity Thresholds as shown in Table 6.4-2.

2. **Projects requiring Subdivision plan certification prior to submission to the Land Development Division for Plat or other approval required by Article 8 of this Code.** Pursuant to the procedures of Article 5, Subdivision plan certification is required for all subdivision of land for which a plat waiver has not been granted pursuant to Article 8.

Table 6.4-3

THRESHOLDS FOR PROJECTS REQUIRING BOARD OF COUNTY COMMISSIONERS' APPROVAL

ZONING DISTRICTS	MAXIMUM NUMBER OF S.F. OR UNITS	MAXIMUM ACREAGE
RS	250 du	50 ac
RM	300 du	50 ac
RH	300 du	50 ac
CN	20,000 sf	3 ac
CLO	20,000 sf	3 ac
CC	30,000 sf	5 ac
CHO	50,000 sf	10 ac
CG	50,000 sf	10 ac
CRE	100,000 sf	12 ac
IL	100,000 sf	30 ac
IG	100,000 sf	30 ac
PO	100,000 sf	20 ac
SA	50,000 sf	20 ac

NOTES:

1) All new construction of residential, commercial, or industrial development that meets, exceeds, or creates development in excess of either the acreage requirement or maximum number square footage or units in Table 6.4-3 shall be reviewed for approval as a planned development district and shall receive approval, approval with conditions, or denial, pursuant to the procedures and standards of Sec. 6.8.

2) Land area devoted to retention pursuant to the requirements of the C-51 drainage basin or land area devoted to vegetation preservation pursuant to the Environmentally Sensitive Lands Ordinance shall not be counted toward the maximum acreage threshold.

[Ord. No. 93-4] [Ord. No. 94-23] [Ord. No. 95-8]
[Ord. No. 93-4; February 2, 1993] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-8; March 21, 1995]

D. Supplementary use standards. This section contains supplementary standards for specific uses. In the case of conflict with district or other regulations of this Code, the more restrictive requirement shall apply, unless otherwise specifically provided or clearly intended. Where a variance from these standards is required to allow the use on site, such as a minimum lot size requirement, or meet a minimum required standard such as parking, the variance shall be obtained before the use application is placed on the agenda for Development Review Committee. Where a variance from these standards is requested to facilitate a desired site design and is not required to allow the use, the variance may be obtained at any time prior to certification of the final site or subdivision plan.

1. Accessory dwelling means a second dwelling unit either in or added to an existing single-family dwelling, or in an accessory structure on the same lot as the principal single-family dwelling. An accessory dwelling is a complete, independent living facility equipped with a kitchen and with provisions for sanitation and sleeping. An accessory dwelling use shall comply with the following supplementary use standards:

   a. **Approval**. Applicant shall obtain a special permit from the Zoning Division

   b. **Occupancy**. Occupancy of accessory dwelling shall be limited to a household that includes at least one (1) member who is physically disabled or elderly, or who meets the low-income standards specified in affordable housing as defined in Article 3.

   c. **Number of units**. A maximum of one (1) dwelling may be permitted as an accessory use to a principal single-family dwelling unit. The accessory dwelling may be attached to the principal dwelling unit or may be freestanding.

   d. **Floor area**. The accessory dwelling shall not exceed eight hundred (800) square feet gross floor area, except when located on a lot that is at least one (1) acre in size, in which case the dwelling shall not exceed one thousand (1,000) square feet gross floor area.

   e. **Number of bedrooms**. No accessory dwelling shall contain more than one (1) bedroom.

   f. **Architecture**. The accessory dwelling shall be constructed of materials substantially equivalent to either the principal dwelling unit or other permanent accessory structure on the lot, provided that such materials comply with all other applicable standards of the building code.

   g. **Compatibility**. The accessory dwelling shall be compatible in character and subordinate in size to the principal dwelling unit.

   h. **Setbacks**. The accessory dwelling shall comply with the minimum yard setbacks applicable to the principal single-family dwelling unit.

   i. **No separate ownership**. The accessory dwelling shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and shall not be subdivided or sold as a condominium.

   j. **Renewal of Special Permit.** The special permit shall be renewed annually in accordance with Sec. 5.5.E.9. of this code.

2. **Adult entertainment** means:

1. **Establishment.** Any adult arcade, adult theater, adult bookstore/adult video store, adult motel, or adult dancing establishment; or any establishment or business operated for commercial gain where any employee, operator or owner exposes his/her specified anatomical area for viewing by patrons, including but not limited to: massage establishments whether or not licensed pursuant to chapter 480, Fla. Stat., tanning salon, modeling studio, or lingerie studio.

2. **Exclusions.** Excluded from this definition are any educational institutions where the exposure of the specified anatomical area is associated with a curriculum or program.

3. **License.** An establishment that possesses an adult entertainment license is presumed to be an adult entertainment establishment.

An adult entertainment use shall comply with the following supplementary use standards: A special permit for an adult entertainment establishment shall be issued or denied within twenty-one (21) days of a determination of application sufficiency pursuant to the standards and procedures in Article 5 and the requirements of the Code. An aggrieved party has the right to immediately appeal a denial of application sufficiency for a special permit, denial of a special permit, or revocation or suspension of a permit by the filing of a petition for Writ of Certiorari in the Circuit Court in the Fifteenth Judicial Circuit of the State of Florida in accordance with the procedure and within the time provided by the Florida Rules of Civil Procedure and the Florida Rules of Appellate Procedure.

a. **Purpose and intent**. This section is intended to provide for the proper location of adult entertainment uses in order to protect the integrity of adjacent neighborhoods, educational uses, religious uses, parks and other commercial uses. Proper separation of adult entertainment uses prevents the creation of "skid-row" areas in unincorporated Palm Beach County that results from the concentration of these uses and their patrons. It is the intent of this section to limit the secondary effects of adult entertainment uses. The standards in this section are intended to ensure that residential districts, religious uses, educational uses, parks and other commercial uses are located in areas free from the secondary effects of adult entertainment uses. The location of residential districts, religious uses, educational uses, parks and other commercial uses within viable, unblighted and desirable areas supports the preservation of property values and promotes the health, safety and welfare of the public.

b. **Specified anatomical areas: Means:**

(1) Less than completely and opaquely covered:
   (a) Human genitals and pubic region; or
   (b) The opening between the human buttocks, i.e., the anal cleft; or
   (c) That portion of the human female breast encompassed within an area falling below the horizontal line one would have to draw to intersect a point immediately above the top of the areola (the colored ring around the nipple); this definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed; or

(d) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(2) **Specified sexual activities means:**

(a) Human genitals in a state of sexual stimulations, arousal or tumescence;

(b) Acts of human analingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellation, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sexual intercourse, or sodomy; or

(c) Fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast; or

(d) Excretory functions as part of or in connection with any of the activities set forth in subsections 1. through 2.

c. **Findings of fact.** Based on the evidence and testimony presented at the public hearings before the Board of County Commissioners and on the findings incorporated in the United States Attorney General's Commission on Pornography (1986), "A Summary of a National Survey of Real Estate Appraisers Regarding the Effect of Adult Bookstores on Property Values," conducted by the Division of Planning, Department of Metropolitan Development, City of Indianapolis, January, 1984, the Board of County Commissioners hereby finds the following:

(1) Commercial uses exist or may exist within unincorporated Palm Beach County where books, magazines, motion pictures, prints, photographs, periodicals, records, novelties and/or other devices that depict, illustrate, describe or relate to specified sexual activities are possessed, displayed, exhibited, distributed and/or sold.

(2) Commercial uses exist or may exist within unincorporated Palm Beach County:

(3) Where the superficial tissues of one person are manipulated, rubbed, stroked, kneaded, and/or tapped by a second person, accompanied by the display or exposure of specified anatomical areas;

(4) Where dancers, entertainers, performers, or other individuals, who, for any form of commercial gain, perform or are presented while displaying or exposing any specified anatomical area; or

(5) Where lap dancing occurs.

(6) This competitive commercial exploitation of such nudity and semi-nudity is adverse to the public's interest and the quality of life, tone of commerce, and the community environment in Palm Beach County.

(7) When the activities described in Sec. 6.0...2.c.(1) and 6.0...2.c.(2) above are presented in commercial uses, other activities that are illegal, immoral, or unhealthful tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include, but are not limited to, prostitution, solicitation for prostitution, lewd and lascivious behavior, possession, distribution and transportation of obscene materials, sale or possession of controlled substances, and violent crimes against persons and land.

(8) When the activities described in Sec. 6.0...2.c.(1) and 6.0...2.c.(2) above are present in commercial uses within Palm Beach County, they tend to blight neighborhoods, adversely affect neighboring businesses, lower property values, promote crime, and ultimately lead residents and businesses to move to other locations.

(9) There is a direct relationship between the display or depiction of specified anatomical areas as described in Sec. 6.0...2.c.(2) above and an increase in criminal activities, moral

degradation and disturbances of the peace and good order of the community, and the occurrence of these activities is hazardous to the health and safety of those persons in attendance and tends to depreciate the value of adjoining land and harm the economic welfare of the community as a whole. These secondary effects are adverse to the public's interest and quality of life, the tone of commerce and the community environment in Palm Beach County.

(10) Based upon these findings, it is in the interest of the health, safety, morals, and general welfare of the citizens of Palm Beach County that adult entertainment uses are regulated pursuant to the following standards:

d. Nonconformity.

(1) **Establishment of Nonconformity.** Any adult entertainment use shall be deemed a nonconforming use and the standards of this section shall not apply if the adult entertainment use on November 28, 1988:

(a) **Location.** Was in operation as an adult entertainment use, was generally known and held out in the neighborhood and community as an adult entertainment establishment, and was open to the public as an adult entertainment establishment use; and

(b) **Occupational license.** Possessed a valid and current occupational license authorizing the general type of use which would correspond to the adult entertainment use being claimed as nonconforming on November 28, 1988;

(c) **Adult entertainment license.** Any establishment seeking to establish nonconforming status as an adult entertainment use under the terms of this Code, shall submit an application for an adult entertainment license pursuant to the Palm Beach County Adult Entertainment Code, Chapter 17, Article V of the Palm Beach County Code, as may be amended, with appropriate filing fees by August 15, 1992.

(2) **Standards for nonconformance.** A nonconforming adult entertainment use as determined in Sec. 6.4.D.2.d above shall be subject to the following supplementary standards, in addition to Art. 1.6 (Nonconformities).

(a) **Location.** The adult entertainment use located within the distances set forth in Sec. 6.4.D.2.e shall not increase the gross floor area or square footage of the structure by more than ten (10) percent over a fifteen (15) year period, beginning November 28, 1988.

(b) **Landscape strip.** The adult entertainment use shall construct and install Alternative Landscape Strip Number 2, as defined in Sec. 7.3.E.3.b (Compatibility landscape buffer strips), along any property line that abuts a residential district, within ninety (90) days of the date of issuance of the adult entertainment license by the occupational licensing department.

(c) **Building permit.** If a building permit for exterior structural renovation or remodeling or a paving or parking permit is issued for the adult entertainment use, the requirements of Sec. 7.3 (Landscaping and Buffering) shall apply to the entire site of the adult entertainment use.

e. Location.

(1) **General.** An adult entertainment use shall be located the following minimum distances from the following uses.

(a) **Another adult entertainment use:** two thousand (2,000) feet.

(b) **A church or place of worship:** one thousand (1,000) feet.
(c) **An educational institution:** one thousand (1,000) feet.
(d) **A public park:** five hundred (500) feet.
(e) **A residential zoning district (which is designated as residential by any local Comprehensive Plan):** five hundred (500) feet.

(2) **Measurement of distance.** The distance set forth in this section shall be measured by drawing a straight line between the nearest point on the perimeter of the exterior wall or bay housing the proposed adult entertainment use to the nearest point on the property line of the relevant church or place of worship, educational institution, public park, residential zoning district. For the purpose of measuring the distance between adult entertainment uses, the distance shall be measured by drawing a straight line between the nearest point on the perimeter of the exterior wall or bay of the proposed or existing adult entertainment establishment and the nearest point on the exterior wall or bay of another adult entertainment establishment. Measurement shall be made in a straight line, without regard to intervening structures or objects.

(3) **No variance.** There shall be no variance to the locational standards of this section.

(4) **Subsequent development within locational standards.** The subsequent approval of a development order for a church or place of worship, elementary or secondary school, public park or residential district within the distances outlined in this section shall not change the status of the adult entertainment use to that of a nonconforming use.

f. **Screening.** An Alternative Landscape Strip Number 1, pursuant to Sec. 7.3.E.3.b (Compatibility landscape buffer strips), shall be installed along any property line that abuts a residential district.

g. **Lighting.** Outdoor low-intensity lighting shall be provided that illuminates the entire parking and vehicular use area. The lighting shall be installed on structures that do not exceed sixteen (16) feet in height from finished grade.

3. **Agricultural research and development** means the use of land or buildings for agriculture research and the cultivation of new agricultural products. Agricultural research and development shall comply with the following standards.

a. **SA district.** In the SA district an agricultural research and development facility shall have a fifty (50) foot buffer from residentially occupied or zoned property in addition to the required minimum setbacks. Agricultural research and development in the SA district may exceed a height of thirty-five (35) feet, provided that the minimum yard setback standard shall be met, and in addition a three (3) foot setback shall be added for every ten (10) feet in height the structure is above thirty-five (35) feet. Agricultural research and development shall be a condition Type "A" in the RR10 land use designation in the Future Land Use Element of the Comprehensive Plan.

4. **Agricultural sales and service** means an establishment primarily engaged in the sale or rental of farm tools and small implements, feed and grain, tack, animal care products, farm supplies and the like, excluding large implements, and including accessory food sales and machinery repair services. Agricultural sales and service uses shall comply with the following supplementary use standards:

a. **SA district.** In the SA district, agricultural sales and service uses shall not be permitted on lands designated RR10 in the Future Land Use Element of the Comprehensive Plan.

b. RSER district. In the RSER district the following supplementary standards shall apply to agricultural sales and service uses.

(1) **Storage.** All storage areas for agricultural sales and service uses shall be enclosed or completely screened from view. Tractor trailers used for the transport of bona fide agricultural products used by the local agricultural community may be stored on the property. A maximum of five (5) tractor trailers may be stored outside if they are completely screened from view from streets and neighboring property.

(2) **Grocery sales.** Up to five (5) percent or five hundred (500) square feet, whichever is less, of the merchandise sales area of an agricultural sales and service use may be devoted to retail grocery sales, provided that the grocery display space is limited to one (1) discrete area of the establishment. Shelves, floor area, counter space and overhead display areas shall be included in the calculation of the grocery sales area. There shall be no exterior signage and no external evidence of the availability of grocery products for sale.

(3) **Repair services.** Service of small implements shall only be permitted in enclosed areas of an agricultural sales and service use that is completely screened from the roadway and adjacent lands. Repair activities shall occur only between the hours of 7:00 AM and 9:00 PM.

(4) **Sale of large implements.** Sale of large farm implements shall be permitted at an agricultural sales and service use only for an establishment existing on February 1, 1990, and located on a State maintained road.

5. **Agricultural transshipment** means packing, crating or shipping of agricultural products not grown or raised on site, and specifically excluding slaughterhouses and fish processing. In the SA district an agricultural transshipment facility shall have a fifty (50) foot buffer from residentially occupied or zoned property in addition to the required minimum setbacks. The use shall not be permitted on lands designated RR10 in the Future Land Use Element of the Comprehensive Plan.

6. **Agriculture, bona fide** means any plot of land where the principal use is bona fide agricultural meaning the raising of crops inclusive of organic farming or raising of animals inclusive of aquaculture or production of animal products such as eggs or dairy products inclusive of agriculture, or a retail or wholesale nursery on an agricultural or commercial basis. Agricultural uses shall comply with the following supplementary use standards:

a. Determination. A determination as to whether the use of the land for agriculture is bona fide shall only be made where both 1 and 2 below are met. Criteria listed in item 3 below shall be used as guidelines in the determination.

(1) **Designation criteria.** The property complies with the following standards:

(a) **Continuous use.** The use has been continuous; and

(b) **Farming procedures.** Farming procedures have been demonstrated by past action or documented plans to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, but not limited to, fertilizing, liming, tilling, mowing, reforesting, and other accepted agricultural practices; and

(c) **Agricultural classification.** The property has received a qualified agricultural classification pursuant to Sec. 193.461, Fla. Stat.; and

(2) **Productivity standards.** The productivity or proposed net return or production of the farm operation based on net or yield for the type of agricultural production on the site is comparable to the average net or yield for the type of agriculture in Florida. In making this determination at least four (4) of the following standards shall be met:

(a) **Amount of land.** The amount of land under cultivation or in agricultural use (including canal or drainage features) is greater than sixty percent (60%) of the total parcel;

(b) **Investment.** Demonstration is made that there has been on-going investment in and maintenance of the agricultural land use or documented plans for investment in agricultural use of the land;

(c) **Employees.** There are typical seasonal or full-time employees for the agricultural operation;

(d) **No nonagricultural development.** There is no nonagricultural development (except accessory agricultural uses as defined in Sec. 6.4.D.6, or farm residences or farm workers quarters) on site.

(e) **Demonstration.** Demonstration is made that the land will be used for agricultural production for more than five (5) years.

(3) **Additional guidelines.**

(a) **Size.** The size of the land area, as it relates to a specific agricultural use is appropriate;

(b) **Lease.** Whether such land is under lease, and if so, the effective length, terms and conditions of the lease;

(c) **Intent.** The intent of the landowner to sell or convert the land for nonagricultural purposes;

(d) **Proximity.** The proximity of the property to existing urban metropolitan development;

(e) **Productivity.** The productivity of land in its present use; and

(f) **Plan designation.**The Comprehensive Land Use Plan Designation.

b. **Agricultural uses in the Urban Services Area (USA).**

(1) **Applicability.** Uses existing at the time of adoption of the ordinance permitting agricultural uses in the urban services area shall be considered to be conforming. Any expansion of existing agricultural uses and any new agricultural uses shall be consistent with all applicable requirements and subject to review by the appropriate staff or review board as identified in the ULDC.

(2) **Uses.** Agricultural uses not listed below as permitted within the Urban Services Area, shall only be permitted with a class A Conditional use approval.

(3) **Previous development orders.** Property which has a development order may also receive an additional development order for a temporary agricultural use in the USA in accordance with the standards enumerated in 6.4.D.(Supplementary use standards) for the specific agricultural use, however, the agricultural use shall not be eligible for an agricultural tax exemption.

c. **SA district.** In an SA district located in an RR10 land use designation in the Future Land Use Element of the Comprehensive Plan, citrus packing and grading plants, forage drying facilities and precooling/packing plants shall be allowed only for existing farm operations.

d. **AR district.** In the AR district, dipping vats shall not be allowed unless approved as a Class "B" Conditional use.

e. **AR district**. In the AR district the following supplementary regulations shall apply.

(4) **Exotic animals**. Exotic animal (imported, or nonnative animal species) care for commercial breeding purposes shall be on a minimum lot size of five (5) acres. Pens, cages or structures associated with the exotic animal care use shall be setback a minimum of fifty (50) feet of any property line.

(5) **Game animals** Game farms or game animal care for private or commercial purposes shall be regulated by the Florida Game and Fresh Water Fish Commission (FGFWC). Minimum lot size for game animal care shall be five (5) acres.

(a) **Structures.** Structures, cages, or enclosures designed to contain dangerous animals or Class I animals as defined by the Florida Game and Fresh Water Fish Commission, shall be approved subject to a Conditional Use Type "A." Pens, cages or structures associated with the game animal care use shall be setback a minimum of fifty (50) feet from any property line.

f. **CRS district**. In the CRS district, livestock raising shall be subject to the following supplementary use standards:

(1) **Large animals**. The maximum number of large animals permitted for each acre shall not exceed five (5). For the purposes of this provision, large animals shall include horses, swine, cattle, goats, and sheep. An enclosed structure is required for each large animal when the total number of large animals exceeds three (3). In addition, the following limitation on the number of specific types of large animals shall apply: horses: five (5); swine: one (1); cattle: two (2); goats: two (2); sheep: two (2).

(2) **Small animals**. For the purposes of this provision, small animals shall include rabbits and fowl, excluding peafowl. The maximum number of small animals permitted for each acre shall be fifty (50) fowl and one hundred (100) rabbits. These numbers are permitted in addition to the five (5) large animals for each acre. For each two (2) large animals less than the maximum permitted, an additional fifty (50) small animals shall be permitted, not to exceed one hundred (100) additional small animals.

g. **Accessory Agricultural uses**. Accessory agricultural uses customary to a bona fide agricultural activity but not considered bona fide agriculture and allowed to be located on the site may include but are not limited to "U-Pick-Em" operations, sale of on-site produced products, grading, packing and shipping of agricultural products, corrals, training facilities, dipping vats, farm production or processing of raw material equipment used exclusively from that farm operation and equipment storage shed. Also, migrant and farm labor quarters and camps and accessory equipment buildings and uses, all contained within a complex designated to serve residents only are accessory. Accessory uses shall be approved as site plan amendments subject to DRC review and may include water and wastewater plants, places of worship, postal facilities and recreational building.

h. **Land application of Dewatered Domestic Wastewater Residuals.** Class A or B Dewatered Domestic Wastewater Residuals (DDWR), as defined by Chapter 17-640, F.A.C. and Article 3 of this Code, may be applied to the land at bonafide agricultural operations in the AP, AGR and AR zoning districts as specified in Sec. 6.4.D.101.

7. Air curtain incinerator, permanent means the installation or use of a portable or stationary combustion device that is designed and used to burn trees and brush removed during land clearing by directing a plane of high-velocity, forced air through a manifold into a pit with vertical walls in such a manner as to maintain a curtain of air over the surface of the pit and a recirculating motion of air under the curtain. Permanent air curtain incinerator uses shall comply with the following supplementary use standards: If an air curtain incinerator facility also includes chipping and mulching or composting, adherence to the supplementary use conditions applicable to such uses shall also be required.

   a. **Setback from residential districts and uses.** A permanent air curtain incinerator use shall be set back a minimum of five hundred (500) feet from any property line abutting a residential district or use. The setback distance may be reduced to a minimum of three hundred (300) feet for a permanent air curtain incinerator use if it is determined that the associated debris, storage, traffic, and potential smoke and odor are not incompatible with the surrounding uses and the PBCPHU has determined that the smoke or odor does not have the potential to create a health threat or nuisance condition.

   b. **Health and environmental regulations.** In addition to a permit from the Florida Department of Environmental Regulation (FDER) and conformance with requirements of Chapter 17-2, F.A.C., a permanent air curtain incinerator use shall be subject to all applicable rules and regulations and require a sign-off from the PBCPHU (within sixty (60) days of submittal of an application to FDER), the Solid Waste Authority (within 60 days of zoning approval) and the Fire-Rescue Department.

   c. **Access.** An access road for collection vehicles shall be provided to the entrance of the facility. Acceptable access does not include residential streets.

   d. **Storage.** On site storage of unprocessed material shall be limited to forty-five (45) days and pile height shall be limited to fifteen (15) feet. Outdoor material storage piles shall be set back a minimum of twenty-five (25) feet from any property line or fifty (50) feet from any property line abutting a residential district or use. Storage areas shall be effectively screened from view. Such screening shall be designed to ensure that storage areas cannot be seen from rights-of-way or adjacent residential districts.

   e. **Landscaping and buffering.** An Alternative Landscape Strip Number 3 conforming to the provisions of Sec. 7.3.E.3.b (Compatibility landscape buffer strips) shall be provided along property lines adjacent to residential zoning districts or uses. The standards shall be waived for any portion of the required landscape buffer that is not visible from adjacent lots or rights-of-way.

   f. **Supplemental application requirements.** The applicant shall provide the following information:
      (1) **Site plan.** A site plan illustrating how the operation functions including circulation routes and their locations, square footage, height and location of buildings, incinerator and storage piles;
      (2) **Hours of operation.** A statement specifying the hours of operation;
      (3) **Waste.** An explanation of the quantity of waste to be received expressed in cubic yards per day or tons per day; and
      (4) **Letter of approval.** The applicant shall provide a notarized letter of approval from the property owner verifying consent to use the property for an air curtain incinerator.

g. **Accessory to nursery**. An air curtain incinerator accessory to a wholesale greenhouse or nursery is permitted subject to Sec. 5.6 (Site Plan/Final Subdivision Plan) and the following standards:

(1) **Yard trash.** The facility shall receive no more than twenty (20) tons or one hundred twenty (120) cubic yards of yard trash for incineration per day. Yard trash is composed of vegetative matter resulting from landscape maintenance or landscape clearing operations and includes materials such as tree and shrub trimmings, grass clippings, palm fronds, trees and tree stumps.

(2) **Letter of approval.** A notarized letter of approval from the property owner shall be provided verifying consent to use the property for an air curtain incinerator.

(3) **Site plan.** A site plan shall be provided illustrating how the operation functions including circulation routes and their locations, square footage, height and location of buildings, incinerator and storage piles.

(4) **Permit.** A permit from the FDER shall be received prior to receiving approval for an amendment to the Official Zoning Map.

(5) **Setbacks.** An air curtain incinerator shall be set back a minimum of five hundred (500) feet from any property line abutting a residential district or use. The setback distance may be reduced to a minimum of two hundred (200) feet for an air curtain incinerator accessory to a wholesale nursery use if it is determined that the associated debris, storage, traffic, and potential smoke and odor are not incompatible with the surrounding uses and the PBCPHU has determined that the smoke or odor does not have the potential to create a health threat or nuisance condition.

(6) **On site storage.** On site storage of unprocessed material shall be limited to forty-five (45) days and pile height shall be limited to fifteen (15) feet. Outdoor material storage piles shall be set back a minimum of twenty-five (25) feet from any property line or fifty (50) feet from any property line abutting a residential district or use. Storage areas shall be effectively screened from view. Such screening shall be designed to ensure that storage areas cannot be seen from rights-of-way or adjacent residential districts.

(7) **Buffering.** The accessory air curtain incinerator operation shall be subject to the compatibility requirements of Sec. 7.3.E.3.b (Compatibility landscape buffer strips).

8. **Air curtain incinerator, temporary** means the installation or use of a portable or stationary combustion device that is designed and used to burn trees and brush removed during land clearing by directing a plane of high-velocity, forced air through a manifold into a pit with vertical walls in such a manner as to maintain a curtain of air over the surface of the pit and a recirculating motion of air under the curtain. Temporary air curtain incinerator uses shall comply with the following supplementary use standards: If an air curtain incinerator facility also includes chipping and mulching or composting, adherence to the supplementary use conditions applicable to such uses shall be required.

a. **Approval**. Applicant shall obtain a special permit from the Zoning Division.

b. **Setback from residential districts and uses.** A temporary air curtain incinerator use shall be set back a minimum of five hundred (500) feet from any property line abutting a residential district or use. The setback distance may be reduced to a minimum of two hundred (200) feet for a temporary air curtain incinerator use if it is determined that the associated debris, storage, traffic, and potential smoke and odor are not incompatible with the surrounding uses and the PBCPHU has determined that the smoke or odor does not have the potential to create a health threat or nuisance condition.

c. **Health and environmental regulations.** A temporary air curtain incinerator use shall be subject to all applicable rules and regulations of the FDER (including Chapter 17-2, F.A.C.), the PBCPHU, the Solid Waste Authority and the Fire-Rescue Department.

d. **Permitting.** The temporary air curtain incinerator shall require approval by the PBCPHU, the Solid Waste Authority, and the Fire-Rescue Department, and shall obtain a special permit from the Zoning Division.

e. **Duration.** The use shall be permitted on the site, with a special permit approval, for a period of 6 (six) months or less.

8.1 Air Stripper Tower (Remedial System) means a temporary accessory petroleum contamination remedial system which treats contaminated groundwater from a site and treated groundwater is then reintroduced into the aquifer using an on-site recharge mechanism. A typical system includes air stripper towers or shallow tray aerator and infiltration gallery, groundwater recovery wells, and an aboveground centrifugal pump. A remedial system shall comply with the following supplementary use standards:

a. **Permit.** A special permit shall be obtained from the Zoning Division to allow air stripper towers within the required building setbacks for the period to be determined by the Department of Environmental Resources Management. The special permit application shall include the following:

(1) **Documents.** Supporting documents from the Department of Environmental Protection and the Palm Beach County Department of Environmental Resources Management for the remedial system.

(2) **Building permit application.** Copies of Building Division application including necessary drawings and documents signed and sealed by a registered engineer ensuring the structural safety and stability of the mechanical equipment.

b. **Property development regulations.** All property development regulations, including setbacks, shall be met. If the applicant is unable to meet the property development regulations, in lieu of a variance, the Zoning Division shall be authorized to determine the location of the remedial system and set necessary conditions for landscaping and screening.

c. **Variance.** If the applicant does not agree with the recommendations and conditions for locating and buffering the remedial system, then an application for a variance must be submitted and approved.

d. **Duration.** The length of time a remedial system may remain on site shall be determined by the Department of Environmental Resources.

9. Airport, landing strip or heliport means any public or privately owned or operated ground facility designed to accommodate landing and take-off operations of aircraft. All private airports, landing strips, and heliports or helipads not owned and operated by the State of Florida, Palm Beach County, or a hospital shall comply with the following supplementary use standards:

a. **AGR and AR districts.** In the AGR and AR districts, only airplane landing strips, airplane hangars, and heliports and helipads accessory to a bona fide agricultural use shall be permitted.

b. **CRE district**. In the CRE district, an airport, accessory landing strip or heliport or helipad shall not be located in an RR10 land use designation of the Comprehensive Plan.

c. **Airspace analysis and preliminary Airport License Report**. All private airports, landing strips, and heliports or helipads shall demonstrate that an airspace analysis has been conducted by the Federal Aviation Administration (FAA), and a preliminary Airport License Report has been prepared by the FDOT. Any alteration in ground facilities or the addition of navigation aids designed to facilitate an instrument approach capability shall require a new application if the original approval was granted for Visual Flying Rules (VFR).

d. **Minimum required landing area**. Private airports and landing strips shall comply with the minimum required dimensions listed in the FDOT Chapter 14-60, F.A.C. Heliports and helipads shall comply with the Heliport Design Guide as required by the FAA.

e. **Minimum area**. Heliports and helipads accessory to residential farm use shall be located on parcels containing a minimum of five (5) acres. Rural airplane landing strips and hangars accessory to agricultural use shall be located on parcels containing a minimum of twenty (20) acres.

f. **Setbacks**. No structure or navigation aid shall be located within fifty (50) feet of any property line. In addition, there shall be a hundred (100) foot setback between the edge of the runway primary surface area as defined by the FDOT Chapter 14-60, F.A.C., and the property line, unless the landing strip facility is a major recreation facility located within a PUD or subdivision. In such cases, there shall be a fifty (50) foot setback between the edge of the runway primary surface area and any residential structure.

g. **Building height**. Requirement for a variance for a structure to exceed the height limit for the district in which the use is located shall be waived if the additional height is required by Federal law or the Fla. Stat.

h. **Fencing and screening**. Where deemed necessary to protect the general public, safety fences up to a height of six (6) feet shall be required. Additionally, screening of at least seventy-five (75) percent opacity shall be required if determined necessary to protect neighboring property from potential loss of use or diminishment of land value.

10. Amusements, temporary or Special event means an activity which includes the provision of rides, amusements, food, games, crafts or performances outside of permanent structures. Typical uses include carnivals, circuses, auctions, and tent revivals. A temporary commercial use shall comply with the following supplementary use standards:

a. **Approval**. Applicant shall obtain a special permit from the Zoning Division.

b. **Duration**. The temporary commercial use shall not be permitted for a period exceeding seven (7) consecutive calendar days, except that one (1) administrative extension of time shall be issued upon request that shall not exceed an additional seven (7) calendar days. If the use is proposed to exceed fourteen (14) days, approval of a Class "A" Conditional use pursuant to Sec. 5.4.F. shall be required.

c. **Setbacks**. All buildings, mobile homes, trailers, vehicles, tents, mechanical devices, carnival rides or animals related to a commercial or amusement type use shall comply with the minimum setbacks of the district and shall be located at least 50 feet from a right-of-way and two hundred (200) feet from any property line adjacent to a residential district. Carnival rides shall be setback a minimum of 100 feet from any right-of-way.

d. **Frontage.** The minimum frontage on the land when the temporary commercial amusement use is located shall be five hundred (500) feet on a public road.

e. **Access.** The primary access for the temporary commercial amusement use shall be from an arterial road and shall not cause traffic to flow through nearby residential areas. Backout parking directly onto a public street shall be prohibited.

f. **Events per year**. Except for auctions, and regional recreational attractions, there shall be no more than two (2) such temporary commercial amusement use events for a property in any one (1) year. Auctions shall be permitted to operate four (4) times per year subject to all other code requirements.

g. **Performance standards**. All temporary amusements shall be subject to performance standards relating to noise and lighting according to Sec. 7.8.

h. **Locational requirements.**

(1) **Location.** Temporary commercial amusement permits shall not be issued for the same dates for two (2) or more events unless they are located more than one-half (1/2) mile from each other.

(2) **Frontage.** Temporary commercial amusements shall not be permitted where the frontage of the subject property abuts a right-of-way under major construction, such as a road widening project.

i. **Compliance.** If a special permit for a temporary amusement is found in violation of any provision of the terms of the permit or of this Code, the Zoning Director may withhold future special permits from the applicant for a period of eighteen (18) months.

11. Arena, auditorium or stadium means an open,or partially or fully enclosed facility primarily used or intended for commercial spectator sports or entertainment. Typical uses include convention and exhibition halls, sports arenas, jai alai frontons, amphitheaters and race tracks. All arena, auditorium or stadium uses shall comply with the following supplementary use standards:

a. **CRE district**. In the CRE district, an arena, auditorium or stadium use shall not be located in an RR10 land use designation of the Comprehensive Plan.

b. **Minimum lot area**. The minimum lot area required for arena, auditorium or stadium uses shall be no less than five (5) acres.

c. **Frontage**. The minimum required frontage on a public street for arena, auditorium or stadium uses at the primary point of access shall be a minimum of four hundred (400) feet in length.

d. **Access**. All points of vehicular access for arena, auditorium or stadium uses shall be from an arterial road. The access points shall be located to minimize vehicular traffic to and through local streets in residential neighborhoods.

e. **Fencing and screening**. Safety fences up to a height of six (6) feet shall be required, if determined appropriate, to protect the general health, safety and welfare. Landscape screens of at least seventy-five (75) percent opacity shall also be required if it is determined they are necessary to ensure compatibility with surrounding uses and to protect neighboring land values. The operation is subject to compatibility requirements of Sec. 7.3. However, an alternative type four (4) landscape strip is required along property lines adjacent to a residential zoning district.

12. Assembly, nonprofit, institutional and membership means a site or facility, open to the public, owned or operated by a not-for-profit organization for social, educational or recreational purposes. Typical uses include museums, cultural centers, recreational facilities, botanical gardens or nonresidential community services such as soup kitchens and medical services. Both institutional and membership nonprofit assembly uses shall comply with the following supplementary use standards:

a. **Location**. The use shall be located on a collector, a local commercial street or street of higher classification.

b. **AR District**. In the AR district, a nonprofit assembly use shall have a one hundred (100) foot buffer from residentially occupied or zoned property in addition to the required minimum setbacks.

13. Auction means an establishment engaged in the public sale of goods to the highest bidder, with all or a portion of the activity and display of merchandise occurring outside of an enclosed building. An auction use shall comply with the following supplementary use standards:

a. **Duration**. The auction use shall not be permitted for a period exceeding seven (7) consecutive calendar days. If the use is proposed to exceed seven (7) days, approval of a Class "B" Conditional use pursuant to Sec. 5.4.F shall be required.

b. **Landowner consent**. The landowner on which the auction shall be held shall consent to the auction and agree to return the land to an orderly and sanitary condition.

c. **Access**. The primary access from an auction use shall be from an arterial road and shall not cause traffic to flow through nearby residential areas. Back-out parking directly onto a public street shall be prohibited.

14. Automotive paint and body shop means an establishment engaged in the painting, repainting, or retouching of motor vehicles, or performance of major external repairs of a non-mechanical nature. An automotive paint and body shop use shall comply with the following supplementary use standards:

a. **CG district**. All activities related to an automotive paint and body shop in the CG district shall be conducted within an enclosed structure.

15. Automotive service station means an establishment engaged in the retail sale of gasoline or other motor fuels, which may include accessory activities such as the sale of accessories or supplies, the lubrication of motor vehicles, the minor adjustment or minor repair of motor vehicles, or the sale of convenience food items. An automotive service station use shall comply with the following supplementary use standards:

a. **Location criteria.** Automotive service stations and related uses and facilities with gasoline sales create intensities which may permanently and substantially alter the character of an area. Prior to approving a conditional use for an automotive service station or other facility with gasoline pumps, the Board of County Commissioners shall make a finding that the use is appropriately located. In making the determination that the use is appropriately located, the Board of County Commissioners shall consider the following guidelines in their review:

(1) **Movement.** Proper functioning of the site as related to vehicle stacking, circulation and turning movements;
(2) **Buffering.** Adequate buffering from residential areas;
(3) **Intersection criteria.** Application of the Major Intersection Criteria as defined in Art. 7.8.C;
(4) **Access.** Provision of adequate access.
(5) **Vicinity.** Number of other fueling stations in the vicinity to safeguard against potential harm from explosion.

b. **Enclosed repair activities.** All accessory repair activities shall be conducted within an enclosed structure. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site.

c. **No vehicle testing on residential streets.** Vehicles shall not be tested off-site on residential streets.

d. **Water recycling.** Any accessory automatic car wash facility shall utilize a water recycling system.

e. **Loudspeakers.** No outdoor speaker or public address systems which are audible off-site shall be permitted.

f. **In the IL and IG Districts.** In the IL and IG Districts, gasoline sales shall be accessory to vehicle repair activities, and convenience store sales area shall be limited to five hundred (500) square feet.

15.1 Aviculture means the breeding, raising and care of birds. Aviculture shall comply with the following supplementary use standards:

a. **Minimum Lot size.** For avicultural uses with more than fifty (50) but less than two hundred (200) birds, the minimum lot size shall be two (2) acres. For avicultural uses with more than two hundred (200) birds, the minimum lot size shall be five (5) acres.

16. Bed and breakfast means an owner-occupied single-family dwelling that offers lodging for paying guests and which serves breakfast to these guests. A bed and breakfast use shall comply with the following supplementary use standards:

a. **Approval.** Obtain a special permit from the Zoning Division.

b. **Resident owner**. The owner operator shall reside on the premises.

c. **No adverse effect**. The proposed use of the property shall not adversely affect the immediate neighborhood.

d. **No nuisance or hazard**. The proposed use of the property shall not create noise, light or traffic conditions detrimental to the neighboring residents.

e. **Exterior alterations**. Only exterior alterations necessary to assure safety of the structure or enhance the compatibility with the surrounding neighborhood shall be made for the purpose of providing a bed and breakfast.

f. **Breakfast only**. No meals other than breakfast shall be served to paying guests.

g. **Guest register**. The resident owner shall keep a current guest register including names, addresses and dates of occupancy of all guests.

h. **Building code requirements**. The building shall comply will all requirements of dwelling units included in the Standard Building Code.

i. **Outdoor advertising**. Generally, outdoor advertising shall be prohibited. However, a variance for a small sign shall be granted if the petitioner demonstrates that there are particular circumstances that would find the sign to be compatible with the surrounding neighborhood. All other conditions of this Code for a variance and signage must be met.

j. **Renewal of Special Permit.** The special permit shall be renewed annually in accordance with Sec. 5.5.E.9 of this code.

17. Campground means a plot of ground established as a commercial campsite for recreational use and not as living quarters. A campground use shall comply with the following supplementary use standards:

a. **Minimum lot area**. A campground use shall have a minimum lot area of at least five (5) acres or the minimum required by the district, whichever is greater.

b. **SA district.** In the SA district a campground shall have a one hundred (100) foot buffer from residentially occupied or zoned property in addition to the required minimum setbacks.

c. **Fencing and screening**. A landscape screen of at least seventy-five (75) percent opaqueness shall be required around a recreation facility use if it is deemed necessary to protect neighboring property from potential loss of use or diminishment of land value. The operation is subject to compatibility requirements of Sec. 7.3. However, an alternative type four (4) landscape strip is required along property lines adjacent to a residential zoning district.

d. **Setbacks**. No campground use shall be located within one hundred (100) feet of any property line.

17.1 Camping cabin means an accessory use for recreational vehicle parks which consists of a cabin used for sleeping. A camping cabin shall comply with the following supplementary use regulations.

a. **Structure.** The cabin shall comply with all structural regulations of the Palm Beach County Building Code.

b. **Duration.** No person shall be permitted to reside in any camping cabin for more than thirty (30) consecutive days, and not more than sixty (60) days in any one-year period.

c. **Setbacks.** Camping cabins shall be setback a minimum of twenty-five (25) feet from the boundary of the park and shall meet the setbacks required of the recreational vehicles.

d. **Location.** A camping cabin may be located on a recreational vehicle pod in lieu of a recreational vehicle.

e. **Size.** A camping cabin shall be no more than four hundred square feet including outside porch area.

f. **Amenities.** A camping cabin may contain electrical outlets, heating and air conditioning units and fans but cooking facilities and plumbing are prohibited.

g. **Permit.** A tiedown permit must be obtained from the building department.

h. **Occupancy.** A minimum of 50 square feet under roof shall be provided for each occupant of the cabin.

i. **Limitation.** A maximum of ten (10) percent of the total approved and developed lots may be converted to cabin use.

18. Car wash or auto detailing means an establishment primarily engaged in the washing or detailing of motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor. Detailing includes hand washing and waxing, window tinting, striping, and interior cleaning. Car wash and auto detailing uses shall comply with the following supplementary use standards:

a. **Location.**
   (1) **CC district.** In the CC district, a Conditional use for a car wash or auto detailing use shall not be approved unless the Automotive service station—location criteria standards of Sec. 6.4.D are met.
   (2) **CG district.** In the CG district, a use for a car wash or auto detailing shall be permitted pursuant to Article 5, Development Review Committee, if car washing and auto detailing is limited to hand washing/waxing and all work is done inside.
   (3) **IL district.** In the IL district, a car wash or auto detailing use shall be permitted by right if limited to hand washing/waxing.

b. **Accessory to service station.** An automatic car wash shall be considered an accessory use to an automotive service station use when it is located on the same lot, and shall be governed by the use and property development regulations applicable to the service station use.

c. **Water recycling.** The car wash facility shall utilize a water recycling system.

d. **Loudspeakers.** No outdoor speaker or public address systems which are audible off-site shall be permitted.

19. Cemetery means land used or intended to be used for human burial, including a chapel mausoleum or columbarium. A cemetery use shall comply with the following supplementary use standards:

a. **Site area.** In accordance with the requirements of Sec. 497.027, Fla. Stat., a cemetery shall be located on a site with a minimum contiguous area of fifteen (15) acres.

b. **Water supply and sewage disposal.** Potable water supply and sewage disposal systems for a cemetery use shall be provided in accordance with the requirements of the PBCPHU.

c. **CG and SA.** In the CG and SA district a cemetery for pets is permitted with a conditional use type B. The pet cemetery use includes an accessory office and mausoleum however an accessory crematory is permitted in the CG district only. The accessory crematory must be approved by the DER. The minimum lot size of fifteen (15) acres is not applicable for pet cemeteries.

d. **RM and RH.** In the RM and RH districts funeral homes accessory to cemeteries are permitted subject to conditional use Type A. In all residential zoning districts, a cemetery shall be located on a collector or arterial street only."

20. Chipping and mulching means an establishment using a permanent facility designed to cut tree limbs, brush or construction debris into small pieces for use as mulch. A chipping and mulching use shall comply with the following supplementary use standards:

a. **Setback from residential districts and uses.** A chipping or grinding machine shall be set back a minimum of three hundred (300) feet from any property line abutting a residential district or use if it is determined that the associated debris, storage, noise, dust and traffic are not incompatible with the surrounding uses. Outdoor material storage piles shall be set back a minimum of twenty-five (25) feet from any property line or fifty (50) feet from any property line abutting a residential zoning district or use.

b. **Permits required.** The operation shall receive and maintain a permit with the Solid Waste Authority within sixty (60) days of approval of the amendment to the Official Zoning Map. A chipping and mulching facility use is subject to all applicable regulations of the Solid Waste Authority and FDER.

c. **Odor and dust reduction.** A chipping and mulching facility use shall be designed and operated to restrict objectionable odor and dust from entering adjacent properties.

d. **Access.** An access road for collection vehicles shall be provided to the entrance of the facility. Acceptable access does not include local streets. Access shall be restricted to specific entrances with gates that can be locked and that carry official notice that only authorized persons are allowed on the site.

e. **Storage.** On-site storage of unprocessed material shall be limited to forty-five (45) days and the pile height of storage material shall be limited to fifteen (15) feet. Storage areas shall be effectively screened from view. Such screening shall be designed to ensure that storage areas cannot be seen from rights-of-way or adjacent residential districts.

f. **Landscaping and buffering.** The operation shall be subject to the compatibility requirements of Sec. 7.3.E.3.b (Compatibility landscape buffer strips). However, an Alternative Landscape Strip Number 3 shall be required along property lines adjacent to a residential zoning district. The standards shall be waived for any portion of the required landscape buffer that is not visible from adjacent lots or rights-of-way.

g. **Chipping and grinding hours.** Hours of operation of chipping and grinding machine are limited to 9:00 a.m. to 5:00 p.m. Monday through Friday if adjacent to residential zoned property.

h. **Supplemental application requirements.** The applicant shall provide the following information:
   (1) **Site plan.** A site plan illustrating how the operation functions including circulation routes and their locations, square footage, height and location of buildings, chipper and storage piles; and
   (2) **Hours of operation.** A statement specifying the hours of operation;
   (3) **Waste.** An explanation of the quantity of waste to be received expressed in cubic yards per day or tons per day;
   (4) **Letter of approval.** A notarized letter of approval shall be provided from the property owner verifying consent to use the property for chipping and mulching; and
   (5) **Dust control.** A plan to address dust control in traffic, storage and processing areas. Dust control measures may include: additional setbacks, full or partial enclosure of chipper or grinder and watering or enclosing mulch piles.

i. **Accessory to nursery.** Chipping and mulching shall be permitted as an accessory use to a wholesale greenhouse or nursery, subject to Article 5, Development Review Committee and the following standards:
   (1) **Letter of approval.** A notarized letter of approval shall be provided from the property owner verifying consent to use the property for chipping and mulching.
   (2) **Site plan.** A site plan shall be provided illustrating how the operation functions including circulation routes and their locations, square footage, height and location of buildings, chipper and storage piles.
   (3) **Limitations.** The facility shall be limited to the processing of yard trash, and no more than twenty (20) tons or one hundred twenty (120) cubic yards of yard trash or composting material shall be received per day. Yard trash is composed of vegetative matter resulting from landscape maintenance or landscape clearing operations and includes materials such as tree and shrub trimmings, grass clippings, palm fronds, trees and tree stumps.
   (4) **Dust control.** A chipping and mulching facility use shall be designed and operated to restrict dust from entering adjacent properties.
   (5) **Setbacks.** A chipping or grinding machine shall be set back a minimum of three hundred (300) feet from any property line abutting a residential district or use. A chipping or grinding machine shall only be operated during week days between the hours of 9:00 AM and 5:00 PM.

(6) **Storage.** On-site storage of unprocessed material shall be limited to forty-five (45) days and pile height of storage material shall be limited to fifteen (15) feet. Storage areas shall be effectively screened from view. Such screening shall be designed to ensure that storage areas cannot be seen from rights-of-way or adjacent residential districts. Outdoor material storage piles shall be set back a minimum of twenty-five (25) feet from any property line or fifty (50) feet from any property line abutting a residential district.

(7) **Buffering.** The accessory chipping and mulching operation shall be subject to compatibility requirements of Sec. 7.3.E.3.b (Compatibility landscape buffer strips).

j. **Fire Prevention**. Chipping and mulching facilities shall be located within ten (10) miles of a full service fire station or have and maintain on-site fire fighting equipment acceptable to the Palm Beach County Fire Marshall.

21. Church or place of worship means a premises or site used primarily or exclusively for religious worship and related religious services or established place of worship, retreat site, camp, convent, seminary or similar facilities owned or operated by a tax exempt religious group for religious activities. A church or place of worship shall comply with the following supplementary use standards:

a. **Temporary sales**. Temporary sales events, such as rummage or bake sales, shall be allowed as an accessory use, subject to the Temporary Retail Sales standards of Sec. 6.4.D and Sec. 5.5 (Special Use Permits).

b. **CN, CC and CG districts**. In the CN, CC and CG districts, a church or place of worship not exceeding one thousand five hundred (1,500) square feet of gross floor area shall be a permitted use, subject to site plan certification approved by the DRC and pursuant to Sec. 5.6 (Site Plan/Final Subdivision Plan).

c. **Institutional land use plan classification.** In the institutional land use plan classification accessory affordable housing shall be permitted subject to Class "A" conditional use. Such use shall be requested only by a nonprofit organization or community based group. This type of residential development would be under the direct supervision of a sponsoring nonprofit organization or community based group. Such housing shall be provided at below market rental and not for resale.

d. **Location**. All places of worship which include a rectory, shall front on a collector or arterial street. All places of worship which include a day care, school, academy, congregate living facility, cemetery, community center or other similar accessory facilities shall front on an arterial or collector street and in no case shall be located on residential or local streets."

e. **PUD Planned Development.** A church or place of worship shall be allowed in residential areas of existing PUD Special Exceptions as a requested use.

22. Communication tower, commercial means AM/FM radio, television, microwave and cellular telephone transmission towers, antennae and accessory equipment and buildings. A commercial communication tower use shall comply with the following supplementary use standards: Upon a declaration by the BCC that a requirement of this code prohibits a government owned tower and that the specific location is required in order to protect the public welfare or safety, the applicable criteria of this section may be amended.

a. **All Districts.** Communication towers over two hundred fifty (250) feet in height shall be approved as Conditional Use, Class "A."

b. **In CG and CLO Districts.** Monopole towers not exceeding one hundred fifty (150) feet in height in the CG and CHO Zoning Districts shall be approved subject to DRC. Monopole towers not exceeding one hundred fifty (150) feet in height in the CN-Neighborhood Commercial and CLO-Commercial Low Intensity Office Zoning Districts shall be approved as Conditional Use, Class "B."

TABLE 6.4-4
SUPPLEMENTAL COMMUNICATION TOWER SETBACKS

ZONING DISTRICTS	SELF SUPPORT TOWERS	MONOPOLE TOWERS	GUYED TOWERS	GUY ANCHORS AND SUPPORTS
AR-Agricultural Residential	100' or 20% of height	100' or 20% of height	100' or 20% of height	20'
Other Residential	50' or 20% of height	50' or 20% of height	50' or 20% of height	20'
Commercial	20% of height	Dist. or 20% of height	20% of height	5'
Industrial	Dist. or 20 % of height	Dist. or 20% of height	Dist. or 20 % of height	5'
From Right-Of-Way	50'	50'	50'	50'

TABLE 6.4-4 NOTES:
1 Whichever is greater
2 Whichever is greater, provided 100% break point calculations.
3 District setbacks apply to towers not exceeding 150 feet.
4 Provided 100% break point calculations.
5 Setbacks from existing or planned street rights-of-way apply if greater than district setbacks.
6 Setbacks from existing or planned street rights-of-way may be lowered to 20' provided a "Jersey barrier" or a similar barrier, based on probably area of attack, is installed.

c. **Setbacks.** The principal support structures of communication towers shall conform to the minimum setback standards of the district in which the use is located. However, the supplemental setback standards in Table 6.4-4 shall apply to all communication towers if greater than the minimum setback standards of the district.

(1) **Certification.** Guyed communication towers shall be certified by a registered engineer in the State of Florida, who shall submit calculations substantiating the position of the one-hundred-percent break point, or the guyed tower shall be located on the site so as to provide a minimum distance equal to one hundred (100) percent of the height of the communication tower from all property lines. However, with the submission of break point calculations, the setback requirements of Table 6.4-4 still apply.

(2) **Setbacks.** Communication towers shall be set back a minimum of one hundred (100) feet from any property line adjacent to a residential district including AR zoned parcels.

d. **Anchor location.** Except as specified in Table 6.4-4, communication tower peripheral supports and guy anchors may be located within required setbacks provided they shall be located entirely within the boundaries of the property on which the communication tower is located.

e. **Location of accessory structures.** All structures accessory to communication towers, other than peripheral supports and guy anchors, shall conform to the setback standards for the district in which the use is located.

f. **Fencing.** A fence or wall not less than eight (8) feet in height from finished grade shall be constructed around each communication tower and around each guy anchor, if used. Access to the communication tower shall be through a locked gate. Barbed wire shall be used along the top of the fence or wall if it is necessary to preclude unauthorized access to the tower.

g. **High voltage signs.** If high voltage is necessary for the operation of the communication tower and it is present in a ground grid or in the tower, signs located every twenty (20) feet and attached to the fence or wall shall display in large bold letters the following: "HIGH VOLTAGE-DANGER".

h. **Landscaping and buffering.** The following landscaping and buffering of communication towers shall be required around the perimeter of the tower and any accessory structures, including guy anchors, except that the standards shall be waived when the proposed landscaping would not be visible from adjacent lots or rights-of-way. Landscaping shall be installed on the outside of fences. Landscaping may be installed on the inside of fences upon approval by the Zoning Director, where viability, survivability or utility of landscaping on the exterior is at question.

(1) **Adjacent to residential uses or residential districts.** An Alternative Landscape Strip Number 4, as described in Sec. 7.3.E.3.b (Compatibility landscape buffer strips) shall be required between communication towers and adjacent lots with existing residential uses or residential future land use plan designations.

(2) **Not adjacent to residential.** In all other instances, communication towers shall comply with the compatibility landscape buffer standards of Sec. 7.3.E.3.b (Compatibility landscape buffer strips).

i. **Additional uses permitted on lot.** Communication towers may be located on lots containing another principal use and may occupy a leased parcel on a lot meeting the minimum lot size requirement of the district in which it is located. The County shall require execution of a unity of title and may require separation between communication towers and other uses on the lot to assure compatibility. Communication towers may occupy a leased portion of a valid lot.

j. **Aircraft hazard.** Communication towers shall not encroach into or through any established public or private airport approach path as established by the Federal Aviation Administration (FAA). To verify compliance with FAA requirements, the applicant shall complete one of the following two processes:

(1) **FAA review.** Prior to site plan certification, the applicant shall provide documentation that the proposed communication tower has been reviewed and is not determined to be a hazard by the FAA. This documentation shall be reviewed by the Palm Beach County Department of Airports (PBCDOA) before site plan certification. The PBCDOA shall review the communication tower application to determine if it is a hazard to any FAA established flight paths. The PBCDOA shall object within ten (10) working days of receiving the FAA notice of no hazard and a copy of the communication tower application submitted to the Zoning Division; or

(2) **Application to FAA.** The applicant shall submit as part of the application for communication tower approval; (a) a copy of the application to the FAA for a favorable determination that the proposed tower is no hazard to air navigation, and (b) a copy of a report, created by a reputable aviation consultant, that indicates the proposed communication tower does not encroach into any established flight paths and that the FAA should issue a favorable determination of no hazard to air navigation for the proposed tower. The Zoning Division shall forward copies of this material to the PBCDOA.

Prior to building permit application, the applicant shall provide documentation that the proposed communication tower has been reviewed and is not determined to be a hazard by the FAA. This documentation shall be reviewed by the PBCDOA. The PBCDOA shall determine if the tower encroaches any FAA established flight paths. The PBCDOA shall review the communication tower application and object within ten (10) working days of receiving the FAA notice of no hazard to air navigation. The FAA documentation shall be attached to the building permit application.

k. **Shared use.** This section is designed to foster shared use of communication towers and their accessory support facilities.

Setbacks. If it is determined that the proposed tower cannot meet setback requirements due to increases in tower height to accommodate shared use, setback requirements may be reduced to a minimum of fifteen (15) feet, except from residential property lines. The lessee of tower space shall fund costs of changes in tower dimensions.

Shared use. The procedure is designed to minimize proliferation of communication towers by making all parties aware of sharing opportunities. Prior to certification of an application by the DRC, all applicants for communication towers, except monopole towers shall comply with the following procedures.

(1) **List.** Annually, the Communications Division shall secure a list of known communication tower users by advertisement in a newspaper of general circulation. The Zoning Division may add known communication tower users to this list. This communication tower users' list shall remain valid for one calendar year.

(2) **Notification.** To encourage shared use, all communication tower applicants shall provide notice by certified mail to all users on the communication tower users' list with the following information: specifications of the proposed tower; its general location; the general rate structure for leasing space, which shall be based on reasonable local charges; its proposed height; and a phone number to locate the owner of the communication tower and a shared use evaluation form.

A copy of the notice shall be mailed to the Communications Division and the Zoning Division. The notices shall invite potential communication tower users to apply for space on the proposed tower.

(3) **Application.** A tower application must be submitted to the Zoning Division within one (1) year of the date notices are mailed to users on the approved users' list.

(4) **Shared use application.** Potential communication tower users shall respond to the notice within twenty (20) days of certified mailing on a shared use application form. A completed shared use application form (established by the Zoning Division), shall be sent to the owner of the proposed communication tower or his authorized agent and the Zoning Division. A fee shall be included with the completed shared use application form sent to the Zoning Division.

(5) **Feasibility.** The feasibility of each shared use application form shall be evaluated by the applicant. The shared use evaluation shall document the feasibility of shared use between the proposed communication tower owner and a potential lessee or sharer. Factors to be considered when evaluating the feasibility of shared use include but are not limited to the following: structural capacity, radio frequency (RF) interference, geographic service area requirements, mechanical or electrical incompatibilities, inability or ability to locate equipment on approved and unbuilt communication towers, cost (if fees and costs for sharing would exceed the cost of the new communication tower amortized over a twenty five [25] year period), FCC limitations that would preclude shared use and other applicable code requirements.

(6) **Rejection.** If the applicant rejects one or more request(s) and if potential tower lessee disputes the rejection(s) for shared use, the following shall occur within five (5) working days of the response deadline:

(a) **Submittal.** Applicant shall submit to the Zoning Division two (2) copies of the following: a brief evaluation of each rejected response; all design data for the proposed communication tower; and, for responses that are rejected by the applicant due to structural limitations, an explanation that indicates structural improvements necessary to support the rejected requests paid for by the tower space lessee; and

(b) **Consultant.** The Zoning Division shall forward copies of all applications for shared use and the applicant's evaluation of each rejected request to a consultant, retained on an as needed basis by the County and paid from shared user application fees.

(7) **No consultant.** If the applicant did not reject any requests for shared use or if no rejected requests for tower space were disputed by any potential tower lessee(s), no consultant review is necessary.

(8) **Evaluation.** Within ten (10) working days of receiving the shared use responses that were rejected by the applicant and disputed by the potential tower space lessee, the consultant shall review and write an evaluation. Two copies of the consultant's evaluations shall be sent to the Zoning Division; one attached to the communication tower application and one forwarded to the applicant by the Zoning Division. The consultant's report shall be advisory, made part of the staff report and considered in approving the communication tower application.

l. **Radiation standards.** Communication towers shall comply with current Federal Communications Commission standards for non-ionizing electromagnetic radiation (NIER). The applicant shall submit engineering documentation to verify that the proposed site plan ensures compliance with these standards. If a NIER evaluation is required as a result of co-location, it shall be paid for by tower space lessee. It may be necessary to hire a consultant, retained on an as needed basis by the County and paid for with permit fees, to evaluate NIER documentation.

m. **Removal of obsolete facilities.** All obsolete and unused communication towers shall be removed within twelve (12) months of cessation of use. The applicant shall submit an executed removal agreement to ensure compliance with this requirement.

22.1 Community vegetable garden. means a plot of land used as a vegetable garden intended to be cultivated and harvested by a group of residents of the surrounding area. The community vegetable garden shall be the primary use of the land. A community vegetable garden shall comply the following supplementary use standards:

a. **Maximum lot size.** The maximum size of the community vegetable garden shall not exceed two acres.
b. **Accessory Structures.** Accessory structures shall be limited to a 400 square feet.
c. **Setbacks.** The Community Vegetable Garden and accessory activities shall maintain a setback of 5 feet from all property lines adjacent to residentially zoned land. Accessory structures shall meet the setbacks of the district.
d. **Use.** Retail or wholesale sale of vegetables or other agricultural products is prohibited.
e. **Equipment.** Use of heavy equipment shall be prohibited.
f. **Preservation.** The use shall conform with all preservation, and vegetation removal requirements of the Palm Beach County ULDC for the underlying permitted use, and shall conform with the provisions of Secs. 7.6 Vegetation Protection, Sec. 9.2 Environmentally Sensitive Lands, and 9.4 Wetlands Protection of this Code. A setback of 100 feet shall surround all designated wetlands.
g. **Spraying.** Aerial application of fertilizer or pesticides shall be prohibited.
h. **Parking.** A minimum of 4 parking spaces shall be provided in accordance with Sec. 7.2, Off-street Parking Standards, of this Code. Overnight parking shall be prohibited.
i. **Loading.** All loading and unloading activities shall be restricted the site and shall not encroach into any setbacks.
j. **Storage.** Outdoor storage shall be prohibited. Storage of all accessory equipment or products shall be contained within the accessory structure.

23. Composting facility means a facility that is designed and used for transforming, through biological decomposition, food, yard wastes and other organic material into soil or fertilizer. This use does not include backyard composting bins serving individual families. A composting facility use shall comply with the following supplementary use standards: If a composting facility includes chipping or grinding, adherence to chipping and mulching standards in this section is required.

a. **Minimum lot size.** A composting facility use shall be located on a lot with a minimum area of five (5) acres.

b. **Setback from residential districts and uses.** Outdoor material storage piles shall be set back a minimum of twenty-five (25) feet from any property line or fifty (50) feet from any property line abutting a residential district or use.

c. **Health and Environmental Regulations.** A composting facility shall be subject to all applicable regulations of the FDER (including Chapter 17-701, F.A.C), the PBCPHU, and the Solid Waste Authority.

d. **Odor and dust reduction.** A composting facility use shall be designed and operated to restrict objectionable odor and dust from entering adjacent properties.

e. **Access.** An access road for collection vehicles shall be provided to the entrance of the facility. Acceptable access does not include local streets. Access shall be restricted to specific entrances with gates that can be locked and that carry official notice that only authorized persons are allowed on the site.

f. **Storage.** On-site storage of unprocessed material shall be limited to forty-five (45) days and pile height of storage material shall be limited to fifteen (15) feet. Storage areas shall be effectively screened from view. Such screening shall be designed to ensure that storage areas cannot be seen from rights-of-way or adjacent residential districts.

g. **Landscaping and buffering.** The operation is subject to the compatibility requirements of Sec. 7.3.E.3.b (Compatibility landscape buffer strips). However, an Alternative Landscape Strip Number 3 shall be required along property lines adjacent to a residential zoning district or use. The standards shall be waived for any portion of the required landscape buffer that is not visible from adjacent lots or rights-of-way.

h. **Supplemental application requirements.** The applicant shall provide the following information:
   (1) **Site plan.** A site plan illustrating how the operation functions including circulation routes and their locations, square footage, height and location of buildings and storage piles;
   (2) **Hours of operation.** A statement specifying the hours of operation;
   (3) **Waste.** An explanation of the quantity of waste to be received expressed in cubic yards per day or tons per day; and
   (4) **Letter of approval.** The applicant shall provide a notarized letter of approval from the property owner verifying consent to use the property for composting.

i. **Accessory to nursery.** Composting accessory to a wholesale greenhouse or nursery is permitted subject to Site Plan/Final Subdivision Plan review pursuant to Sec. 5.6 (Site Plan/Final Subdivision

Plan) and the following supplementary standards:

(1) **Trash.** The facility shall receive no more than twenty (20) tons or one hundred twenty (120) cubic yards of yard trash or chipping material per day. The yard trash is composed of vegetative matter resulting from landscape maintenance or landscape clearing operations and includes materials such as tree and shrub trimmings, grass clippings, palm fronds, trees and tree stumps.

(2) **Letter of approval.** A notarized letter of approval is provided from the property owner verifying consent to use the property for composting.

(3) **Site plan.** A site plan shall be provided illustrating how the operation functions including circulation routes and their locations, square footage, height and location of buildings and storage piles.

(4) **Odor/dust control.** A composting facility use shall be designed and operated to restrict objectionable odor and dust from entering adjacent properties.

(5) **Storage.** On-site storage of unprocessed material shall be limited to forty-five (45) days and pile height of storage material shall be limited to fifteen (15) feet. Storage areas shall be effectively screened from view. Such screening shall be designed to ensure that storage areas cannot be seen from rights-of-way or adjacent residential districts. Outdoor material storage piles shall be set back a minimum of twenty-five (25) feet from any property line or fifty (50) feet from any property line abutting a residential district.

24. Congregate living facility means a residential land use consisting of any building or section thereof, residence, private home, boarding home, home for the aged, or any other residential structure, whether or not operated for profit, which undertakes, for a period exceeding twenty-four (24) hours, care, housing, food service, and one (1) or more personal services for persons not related to the owner or administrator by blood or marriage. In addition, the term shall include rehabilitative home care development service housing, and adult congregate living facilities for the physically impaired, mentally retarded, developmentally disabled persons, or persons sixty (60) years of age or older. The term shall not mean "nursing home," "intermediate care facility," or similar facility which provides medical care and support services to persons not capable of independent living. For the purposes of Art 10, Impact Fees the term shall include adult foster home, nursing home, adult congregate living facility, and adult day care center, as defined by Chapter 400, Fla. Stat. A congregate living facility use shall comply with the following supplementary use standards:

a. **Applicability.** The requirements of this section shall apply to all congregate living facilities within unincorporated Palm Beach County and to the requirements of Article 5. These standards shall prevail over less restrictive standards applicable to such facilities imposed by the Zoning Code or otherwise by law. All CLFs for residents other than housing for children, aged persons, physically disabled persons, developmentally disabled persons as defined in section 393.0631(b), Florida Statutes, nondangerously mentally ill persons as defined in section 394.455(3), Fla. Stat., safe house shelters, or maternity homes excluding birthing centers and clinics shall be subject to the requirements of Article 5. Except as otherwise provided, a CLF, type 2 and a CLF, type 3, requires a conditional use type "B" or "A."

b. **Permissible occupancy.**

(1) **Type 1.** The maximum occupancy of a congregate living facility, Type 1 shall be six (6)

persons, excluding staff.

(2) **Type 2.** The maximum occupancy of a congregate living facility, Type 2 shall be fourteen (14) persons, excluding staff.

(3) **Type 3.** The maximum occupancy of a congregate living facility, Type 3 shall be determined by multiplying the maximum number of dwelling units that are permitted on the land by the density allowed by the Comprehensive Land Use Plan category or, in the case of a nonresidential district, by the alternative density specified in the Future Land Use Element of the Comprehensive Plan, by two point three nine (2.39), which represents the average household size of all occupied dwelling units in Palm Beach County in the 1990 U.S. Census. Maximum permitted occupancy of a congregate living facility, Type 3, located in a Planned Development district shall be governed by the applicable Comprehensive Land Use Plan category and the gross density of the district, and shall be specified on the approved development order for the Planned Development.

TABLE 6.4-5
Maximum Permissible Occupancy in Type 3 Congregate Living Facilities

		Maximum Occupancy (Residents per Acre)	
Land Use Plan Category (Residential)	Zoning District	In a Standard Zoning District	In a Planned Development
AGR	AGR	PROHIBITED	.24
RR10	RSER	PROHIBITED	.24
RR10	AR	PROHIBITED	.24
RR20	AR	PROHIBITED	.12
RR10	CRS	PROHIBITED	.24
RR20	CRS	PROHIBITED	.12
LR1	CRS	PROHIBITED	2.4
LR1	RE, RT	PROHIBITED	2.4
LR2	RT	PROHIBITED	4.8
LR3	RTS	PROHIBITED	7.2
MR5	RS, RTU	PROHIBITED	12
HR8	RS, RM, RH	14.3	19.1
HR12	RM, RH	19.12	28.7
HR18	RM	19.12	28.7
HR18	RH	19.12	28.7

* For the purpose of this section, the required minimum acreage of a Planned Development in Table 6.8-4 shall be reduced by fifty percent (50%).

(4) Occupancy bonus through Planned Development.

(a) **General**. To the extent that the maximum occupancy for a congregate living facility, Type 3, would be higher in a Planned Development district than in a standard residential district, the difference shall be considered an occupancy bonus. Such an occupancy bonus shall be granted with approval of the Planned Development District only according to the following standards:

(i) **Increase.** An increase in the maximum permitted occupancy of a congregate living facility, Type 3, shall be permitted if at least two of the following circumstances exists.

(a) **Commercial use.** The land has been designated for commercial use in the Future Land Use Element of the Comprehensive Plan, or is in an approved commercial pod in a Planned Development district.

(b) **Density.** The land is designated for MR5 density or greater in the Future Land Use Element of the Comprehensive Plan; and

(c) **Consistency.** The proposed congregate living facility, Type 3, is consistent with the intent of this section, this Code and the Comprehensive Plan.

(ii) **Occupancy bonus.** An occupancy bonus shall not be considered an entitlement. No bonus shall be granted except as an express request in an application for a Planned Development District and may be declined or reduced if it is determined that additional occupancy is not consistent with the general character of surrounding development, or if the effects of additional occupancy have not been adequately addressed through appropriate site design.

(b) **No double counting density in planned developments.** The gross area of a pod dedicated to a congregate living facility on a Planned Development District Plan shall be deducted from the gross area of the planned development for the purpose of calculating the maximum density of conventional residential development.

c. **Location**. For the purposes of the required separation, measurements shall be made from structure to structure, except where the separation required is between a structure and a district boundary, in which case, the separation is measured from structure to district boundary.

(1) **Location of Type 1.** A congregate living facility, Type 1 shall be located wherever a single-family dwelling unit is a permitted use, provided that the congregate living facility is not located within one thousand (1,000) feet of another congregate living facility.

(2) **Location of Type 2 and Type 3.**

(a) **Districts.** A congregate living facility, Type 2 shall be permitted in the RM and RH districts as a permitted use, provided that it is not located within a radius of twelve hundred (1,200) feet of another congregate living facility, Type 2, and five hundred (500) feet from a single-family residential district.

(b) **Access.** A congregate living facility, Type 3 shall have primary access to a collector or arterial roadway, provided that a Type 3 facility having twenty-five (25) residents or less may be located on a local street.

(c) **Location.** Each congregate living facility, Types 2 and 3, shall be located within five (5) road miles of a full service professional fire-rescue station.

d. **Water and sewer facilities.** Potable water supply and sewage disposal systems shall be provided for Congregate living facility, Types 2 and 3, in accordance with the requirements of the PBCPHU.

e. **Design and compatibility.** Each congregate living facility, Type 2 and 3, shall
(1) Be physically designed to conform to and be compatible with the general architectural character of the neighborhood in which it is proposed to be developed; and
(2) Comply with all regulations regarding handicapped access pursuant to State law.

f. **Minimum lot area.** The minimum lot area standards of the district in which the congregate living facility is located shall apply, except that in no case shall the lot size be less than seven thousand five hundred (7,500) square feet for a congregate living facility, Type 2, or one (1) acre for a congregate living facility, Type 3.

g. **Maximum height.** The maximum height of a congregate living facility shall comply with the regulations of the district in which it is located, and in addition shall not exceed seven (7) stories in the RM and RH districts.

h. **Reserve parking area.** For congregate living facility, Types 2 and 3, adequate provision shall be made to reserve sufficient lot area to meet future parking standards if the facility is converted to other uses. Protected vegetation in this reserve parking area shall be maintained as provided in Sec. 7.5 (Vegetation Protection). The boundaries of the reserve parking area shall be identified.

i. **Drop-off area.** Congregate living facilities, Types 2 and 3, shall establish a safe drop-off area for group transportation, such as vans or similar vehicles.

j. **Cooking facilities.** Each congregate living facility shall provide and continuously maintain central facilities for daily food dispensing and consumption. Food preparation shall be prohibited in sleeping areas or in individual quarters in congregate living facilities, Type 1 and Type 2. Individual kitchen facilities may be provided in the living quarters of a congregate living facility, Type 3.

k. **Maximum occupancy of sleeping areas.** The maximum number of persons in each sleeping area shall be determined by applying the space standards of the State of Florida Department of Health and Rehabilitative Services.

l. **Signage.**
(1) **On premises.** Signage for congregate living facilities, Type 1 and Type 2, shall be limited to one (1) on-premises sign no more than one (1) square foot in size. No other on premises or off premises sign shall be permitted on site.
(2) **Identification sign.** A congregate living facility, Type 3, shall be limited to one (1) double or single-face on premises identification sign no more than thirty two (32) square feet in size for each face.
(3) **Standards.** A congregate living facility, Type 3, shall have entrance gates and informational signage that meets the standards of Sec. 7.14 (Signage).

m. **Accessory and associated land uses.**

(1) **Type 1 and 2.** Congregate living facilities, Type 1 and 2, may have those accessory uses customarily incidental to a single-family dwelling unit and permitted home occupations.

(2) **Type 3.** A congregate living facility, Type 3, may have:

(a) **Accessory use.** Those accessory uses customarily accessory to a multi family dwelling unit; and

(b) **Noncommercial uses.** Those noncommercial uses customarily incidental to a congregate living facility, such as a common dining room, a central kitchen, a nursing station, a medical examining room, a chapel, a library, and offices necessary to manage the congregate living facility.

n. **Accessory commercial land uses.** A limited amount of commercial uses may be developed as permitted accessory uses in a congregate living facility, Type 3. Such uses shall be limited to retail and congregate living personal service uses designed to serve exclusively the residents of the facility, such as a barber or beauty shop, small convenience retail sales and banking services. No more than ten (10) percent of the gross floor area of the facility shall be dedicated to such commercial uses. There shall be no exterior signage or other indication of the existence of these commercial uses that may attract nonresidents.

o. **Conversion to conventional dwelling units.**

(1) **Structure.** Prior to conversion to conventional dwelling units, a structure designed to accommodate a congregate living facility shall, if necessary, be structurally modified to comply with the standards of this Code.

(2) **Restrictions.** No development orders for a Site Plan/Final Subdivision Plan for a congregate living facility, Type 3, shall be approved until a declaration of restrictions in a form approved by the County Attorney has been recorded to run with the land records maintained by the Clerk of the Circuit Court for Palm Beach County. This declaration of restrictions shall expressly provide that: (1) the conversion of the premises to conventional dwelling units is prohibited except in compliance with this section; and (2) if permitted, conversion will not result in an increase in the number of "quarters" and residents permitted on the site unless the converted development has obtained a development order for a Planned Development District. If that development order has not been granted, the converted development will have to comply with the density permitted in the district; and (3) the total number of permitted residents may be determined by referring to the approved master or site development plan on file with the Zoning Division of the PZB Department.

p. **Conversion to other uses.** Congregate living facilities that are converted to other uses, including other residential uses, shall comply with all standards in effect at the time of application for building permits for the new use.

25. Contractor's storage yard means storage and accessory office performed by building trade and service contractors on lots other than construction sites. A contractor's storage yard use shall comply with the following supplementary use standards:

a. **Office permitted.** An accessory office shall be permitted.

b. **Screening.** When located in the IL district, outdoor activities and storage shall be completely screened from view from adjacent property and public streets. All storage shall be effectively screened from view by on-site walls, fences or buildings. Such screening shall be designed and installed to ensure that no part of a storage area can be seen from rights-of-way or adjacent lots. In no case shall the height of materials, stored in outdoor areas exceed twenty (20) feet or the height of the principal building on the lot, whichever is greater. For a storage yard contiguous to property in a residential district, and opaque fence/wall a minimum eight (8) feet in height shall be placed along the inside border or the required landscape strip. The purpose of the fence/wall inside the landscaped strip is to protect the landscape strip from the intensive activity of the storage yard and to supplement the landscape strip as a buffer.

c. **Activities.** No major repairs of vehicles or equipment, and no manufacturing or processing shall occur on the site.

26. Convenience store means an establishment, not exceeding three thousand five hundred (3,500) square feet of gross floor area, serving a limited market area and engaged in the retail sale or rental, from the premises, of food, beverages, and other frequently or recurrently needed items for household use, excluding gasoline sales. A convenience store use shall comply with the following supplementary use standards:

a. **CC district.** In the CC district, a convenience store use shall comply with the Major Intersection Criteria of Article 7.

27. Convenience store with gas sales means an establishment, not exceeding three thousand five hundred (3,500) square feet of gross floor area, serving a limited market area and primarily engaged in the retail sale or rental, from the premises, of food, beverages, and other frequently or recurrently needed items for household use, including accessory gasoline sales. A convenience store with gas sales use shall comply with the following supplementary use standards:

a. **Location.** A convenience store with gas sales use shall be subject to the Automotive service station location criteria of Sec. 6.4.D.

b. **Parking.** If a convenience store greater than 1,500 square feet in gross floor area is associated with the service station, one half (1/2) of the additional parking spaces shall be located adjacent to the store.

c. **Handicapped parking.** In all cases, required handicapped spaces shall be located adjacent to the store.

28. Day care center, limited or general. Day care center, general, means an establishment, licensed by the Department of Health and Rehabilitative Services, which provides daytime or nighttime care, protection for twenty-one (21) or more children or adults for a period of less than twenty-four (24) hours per day on a regular basis.

Day care center, limited, means an establishment, licensed by the Department of Health and Rehabilitative Services, which provides daytime care, protection and supervision for six (6) to twenty (20) children or three (3) to twenty adults for a period of less than thirteen (13) hours per day on a regular basis. Limited day care centers do not provide nighttime care. An adult or child day care center, limited or general, shall comply with the following supplementary use standards:

a. **CRE district.** In the CRE district, a general day care center use shall not be located in an RR10 land use designation of the Comprehensive Plan.

b. **Industrial land use category or land use zone.** Child day care centers located in a development with a designation on the Comprehensive Plan of Industrial or within a Planned Development industrial land use zone shall designed principally to serve employees on the same site or a contiguous site. No other types of day care center facilities shall be permitted in an industrial land use category or in a Planned Development industrial land use zone

c. **Minimum lot area.** The minimum lot area shall be no less than six thousand (6,000) square feet or the minimum required by the district in which the day care center is located, whichever is greater.

d. **Minimum floor area.**

(1) **Child day care centers.** For a child day care center of forty (40) children or less, the minimum usable floor area, exclusive of any area devoted to the kitchen, office, storage and toilet facilities, shall be fifteen hundred (1,500) square feet. An additional thirty-five (35) square feet of floor area shall be provided for each child in a child day care center that is proposed to accommodate more than forty (40) children.

(2) **Adult day care centers.** For an adult day care center of twenty persons or less, the minimum usable floor area, exclusive of any space devoted to the kitchen, office, storage, and toilet facilities shall be fifteen hundred (1,500) square feet or more. An additional seventy-five (75) square feet of floor area, or the amount required by the PBCPHU, shall be provided for each person in an adult day care center that is proposed to accommodate more than twenty (20) persons.

e. **Outdoor activity area.**

(1) **General.** An outdoor activity area shall be provided on the same lot as the day care center. It shall not be located in the required front yard or adjacent to any outdoor storage area of any existing adjacent use.

(2) **Child day care centers.**

(a) **General.** There shall be provided a minimum of fifteen hundred (1,500) square feet of outdoor activity area or seventy-five (75) square feet of outdoor activity area for each child (licensed capacity), whichever produces the larger area. The outdoor activity area shall include a shaded area. The Child Care Facilities Board shall approve a reduction in the size of this area where the operator utilizes split shifts for its use. Under no circumstances shall the outdoor activity area be reduced to less than the area required to accommodate one-third (⅓) of the area required under this general standard.

(b) **Infants.** Where a child day care center is limited solely to the care of infants (2 years of age and younger), the outdoor activity area provided shall be a minimum of forty-five (45) square feet per child. The Child Care Facilities Board shall approve a reduction in the size of this area where the operator utilizes split shifts for its use. Under no circumstances shall the outdoor activity area be reduced to less than would be required to accommodate one-half (½) of the area required under this general standard.

(c) **Location of outdoor play equipment.** Stationary outdoor play equipment with a permanent foundation shall be located twenty-five (25) feet from any residentially zoned or used property line, and ten (10) feet from any other property line. If applicable, the location of stationary play equipment shall be depicted on the site plan. Outdoor play equipment shall not be located in any required landscape area or easements.

(3) **Adult day care center.** There shall be provided a minimum of fifteen hundred (1,500) square feet of outdoor activity area or one hundred (100) square feet of outdoor activity area per person for an adult day care center, whichever produces the larger area.

(4) **Shade trees.** A minimum of one (1) twelve (12) foot tall native canopy tree shall be provided or preserved per seven hundred fifty (750) square feet of outdoor activity area provided. All trees required by this condition shall be within the interior of the outdoor activity area.

(5) **Fencing.** A six (6) foot high fence or wall shall surround the outdoor activity area. Where the provisions of this subsection conflict with the height limitations of Sec. 6.6.A.2 (Fences, walls, hedges and utility poles), the provisions of this subsection shall apply.

(6) **Perimeter landscaping.** Landscaping along the perimeter of the outdoor activity area shall include fourteen (14) foot tall native canopy trees placed twenty (20) feet on center, and twenty-four (24) inch high hedge or shrub material placed twenty-four (24) inches on center. This required landscaping material shall be located on the exterior side of the fence.

f. Loading and access.

(1) **Drop-off stalls.** Loading and access shall be developed pursuant to Sec. 7.2. A sufficient number of drop-off stalls located out of the main travel way shall be provided. Drop-off stalls shall be a minimum of twelve (12) feet wide by twenty (20) feet in length.

(2) **Sidewalk access.** A four (4) foot wide walkway running in front of the drop-off spaces and connecting to the day care entrance shall be provided.

29. Day labor employment service means an establishment engaged in providing temporary day labor services for the construction or industrial trades. A day labor employment service use shall comply with the following supplementary use standards:

a. No loitering. No outside waiting or loitering shall be permitted on the site.

b. **WCRA-O, Westgate/Belvedere Homes Overlay District.** In the overlay district, day labor employment service shall adhere to the following standards:

(1) **Use limitation.** Day labor employment service offices shall include any service that selects or assigns manual laborers for temporary work.

(2) **Location.** The service shall be located within and totally surrounded by an industrially zoned and utilized area. Minimum distance of all principal structures, accessory structures and outdoor activity areas shall be situated as follows:

(a) 1000 feet from any nonindustrial use;

(b) 1000 feet from any other day labor service.

(3) **Hours of operation.** No service shall commence business prior to 7:00 a.m. nor continue business later than 6:00 p.m.

(4) **Minimum building size.** No service shall operate in any building that is less than 10,000 square feet. All outdoor areas shall be screened from view by opaque fencing or hedges.

(5) **Loitering.** No outside loitering shall be permitted on the site.

(6) **Loudspeakers.** No outdoor speakers or public address systems that are audible from the exterior of the site shall be permitted.

(7) **Records.** The service shall maintain all business records on the premises for inspection by Palm Beach County.

(8) **Advertising.** Advertising shall be limited a two faced sign with a maximum of twelve (12) square feet per face.

(9) **Development standards.** All services shall adhere to the nonresidential development standards contained in this Code as well as all the nonresidential development standards of Sec. 6.7.B.

30. Dispatching office means an establishment principally involved in providing services off-site to households and businesses using land-based communication. Typical uses include janitorial services, pest control services, and taxi limousine, and ambulance services. A dispatching office use shall comply with the following supplementary use standards:

a. **CG district.** In the CG district, a dispatching office use shall be limited to the use of no more than three (3) service or delivery vehicles. The use of more than three (3) delivery or service vehicles shall require a conditional use type "A."

31. Electrical power facility means a principal use of property for an electrical generation, or transmission voltage switching station. An electrical power facility use shall comply with the following supplementary standards:

a. **Location.** The location of the proposed electrical power facility shall be within reasonable proximity of the area to be served by the facility.

b. **Setbacks, buffers, screening.** If deemed necessary to ensure land use compatibility with surrounding uses, adequate setbacks, screening and buffering around the perimeter of the proposed electrical power facility use shall be provided at the time the facility is constructed or when surrounding development occurs. The standards shall be waived if any of the required landscape buffer is not visible from adjacent lots or rights-of-way. Setbacks, screening and buffering may include, but shall not be limited to, the following:

(1) **Setbacks.** Structures and their accessory uses (excluding poles) shall be setback a minimum of fifty (50) feet

(2) **Screening.** Screening around the perimeter of the property on which the facility is located, consisting of a hedge, earthen berm, or fence which will present a solid visual screen at least six (6) feet in height within one (1) year of installation, or otherwise as presented in a Landscape Betterment Plan.

c. **Compliance with Code and other regulations.** The proposed electrical power facility shall comply with all other requirements of this Code and all other relevant state and federal laws.

32. **Entertainment, indoor** means an establishment offering entertainment or games of skill to the general public for a fee or charge and wholly enclosed in a building, excluding fitness centers and gun clubs. Typical uses include bowling alleys, bingo parlors, movie theaters, pool halls, billiard parlors and video game arcades. An indoor entertainment use shall comply with the following supplementary use standards:

a. **CRE district.** In the CRE district, an indoor entertainment use shall not be located in an RR10 land use designation of the Comprehensive Plan. If the entertainment facility exceeds three (3) acres in the IL zone then the use must rezone to the CRE district.

b. **CG and CC districts.** In the CG and CC districts, video arcades and movie theaters are permitted as a right, provided they do not exceed square footage threshold requirements. They would then follow the appropriate review criteria according to Table 6.4-2 or 6.4-3.

33. **Entertainment, outdoor** means an establishment offering entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open, excluding golf courses and public parks. Typical uses of an athletic nature include archery ranges, athletic fields, batting cages, golf driving ranges and tennis courts. Other uses include go-cart tracks, miniature golf courses, jet skiing, swimming pools, tennis courts and wind surfing but excluding gun clubs. An outdoor entertainment use shall comply with the following supplementary use standards:

a. **CRE district.** In the CRE district, an outdoor entertainment use shall not be located in an RR10 land use designation of the Comprehensive Plan unless it is owned or operated by a public agency. If the entertainment facility exceeds three (3) acres in the IL zone then the use must rezone to the CRE district.

b. **CC district.** In the CC district an outdoor entertainment facility shall be limited to such uses that are of a community nature and that serve the residential neighborhood within a three to five mile radius.

c. **Location**. No outdoor entertainment facility use consisting of an outdoor wildlife preserve or attraction shall be permitted within five hundred (500) feet of an existing residential development or an area designated in the Future Land Use Element of the Comprehensive Land Use Plan for residential development.

d. **Access**. Access to an outdoor entertainment use shall be from a hard surfaced, public road. The minimum required frontage on a public road to be used for the primary point of access shall be two hundred (200) feet.

e. **Fencing and screening**. Safety fences up to a height of ten (10) feet shall be required around a recreation facility if deemed necessary. A landscape screen of at least seventy-five (75) percent opacity shall be required around a recreation facility use if it is deemed necessary to protect neighboring property from potential loss of use or diminishment of land value.

f. **Setbacks**. No building, mobile home, trailer, vehicle, mechanical device, or outdoor area or facility of an outdoor entertainment use shall be located closer to the property line than as follows:

Type of Use	Minimum Setback
Athletic Field	50 feet
Other Recreation Area or Structure	100 feet

34. **Equestrian arena, commercial** means an establishment engaged in commercial spectator activities involving equestrian events, but excluding any establishment engaged in pari-mutual betting. An equestrian arena use shall comply with the following supplementary use standards:

a. **Location**. An equestrian arena shall, at the minimum, be located on a collector street.

b. **Setbacks**. Riding and show rings shall not be located within one hundred (100) feet of any property line.

c. **Operating hours**. Activity at the rings shall not occur prior to 7:00 a.m. nor continue later than 12:00 midnight.

d. **Lighting**. All lighting must be confined to the arena and shall not spill over to neighboring property.

e. **Loudspeaker**. Loudspeakers shall not be used after 11:00 p.m.

f. **SA district**. In the SA district an equestrian arena shall have a one hundred (100) foot buffer from residentially occupied or zoned property in addition to the required minimum setbacks.

g. **Urban Service Area.**

(1) **Minimum lot size.** In the Urban Service Area, the minimum lot size shall be five (5) acres.

(2) **Compatibility.** The use shall assure that there is no incompatibility with surrounding land uses. In the event that an incompatibility exists, the petitioner shall satisfactorily mitigate the incompatibility prior to receiving conditional or DRC approval. The Board of County Commissioners may impose conditions to the approval including but not limited to: controlling objectionable odors; fencing; sound limitations; inspections; reporting or monitoring; preservation areas; mitigation; and/or limits of operation.

(3) **Preservation.** The use shall conform with all preservation, and vegetation removal requirements of the Palm Beach County ULDC for the underlying permitted use, and shall conform with the provisions of Sec. 7.6 (Vegetation Protection), Secs. 9.2 (Environmentally Sensitive Lands) and 9.4 (Wetlands Protection) of this Code. A minimum setback (buffer) of one hundred (100) feet shall surround all designated wetland areas.

34.1. Estate kitchen means an accessory use which is physically integrated with the main residence. There shall not be the presence of a complete living environment associated with the estate kitchen. Lot size for the house with an estate kitchen shall be twice in size of the minimum lot size requirement.

35. Excavation, Type III means the mining, quarrying, developing of mines for exploration of nonmetallic minerals, except fuels, or other extractive materials primarily for commercial purposes, including but not limited to treating, crushing, or processing the material or off-site disposition for fill. All excavation, Type III uses shall comply with the following supplementary use standards:

a. **Type III.** In all districts an excavation, Type III use shall be subject to Sec. 7.6 (Excavation).

b. **Type I and II.** All other excavation (Type I and Type II) is considered an accessory use. A Type II excavation which is required to obtain approval as a Type III due to the amount of fill removed, shall be permitted in all districts which allow Type II excavation, and shall conform to the provisions of Sec. 7.6 (Excavation).

36. Farm residence means a dwelling unit, other than a mobile home, located on a parcel of land used for a bona fide agricultural use and occupied by the owner or operator of the farm operation. A farm residence shall comply with the following supplementary use standards:

a. **Principal dwelling unit.** One (1) principal dwelling unit shall be permitted for each bona fide farm operation.

b. **Accessory uses.** Garages and swimming pools shall be permitted as accessory uses to bona fide farm residences.

37. **Farm workers quarters** means one (1) or more residential structures located on the site of a bona fide agricultural use and occupied by year-round farm workers employed by the owner of the farm. A farm workers quarters use shall comply with the following supplementary use standards:

    a. **Density**. A farm tenant quarters use accessory to a bona fide farm operation shall consist of a maximum of one (1) self-contained dwelling unit for each twenty-five (25) acres in addition to the area required for the principal farm residence.

    b. **SA district**. In the SA district, a farm tenant quarters use shall not be permitted within the RR10 land use designation in the Future Land Use Element of the Comprehensive Plan.

38. **Financial institution** means an establishment engaged in deposit banking. Typical uses include commercial banks, savings institutions, and credit unions, including outdoor automated teller machine and drive-thru facilities. A financial institution use shall comply with the following supplementary use standards:

    a. **CN and CLO districts**. In the CN and CLO districts, a financial institution use shall not consist of more than three thousand (3,000) square feet of total floor area or have a drive-up teller unit.

    b. **CC, CG and CHO, and Planned Development districts**. In the CC, CG and CHO, Planned Development districts, a financial institution use shall not consist of more than ten thousand (10,000) square feet of total floor area or have more than three (3) drive-up teller units, unless it is approved as a Class A Conditional Use or Requested Use, whichever is applicable.

39. **Fitness center** means an enclosed building or structure generally containing multi-use facilities for conducting, including but not limited to, the following recreational activities: aerobic exercises, weight lifting, running, swimming, racquetball, handball, and squash. A fitness center may also include the following customary accessory activities as long as they are intended for the use of the members of the center and not for the general public: babysitting service, bathhouse, food service, and the serving of alcoholic beverages consumed on the premises. This use also includes dance studios and karate schools. Fitness center uses shall comply with the following supplementary use standards:

    a. **RM, RH and CN districts**. In the RM, RH and CN districts, a fitness center use shall not occupy more than one thousand five hundred (1,500) square feet of gross floor area, and shall not have outdoor activities.

    b. **CC and CHO districts**. In the CC and CHO districts, a fitness center use shall not consist of more than fifteen thousand (15,000) square feet of gross floor area unless it is approved as a Class A Conditional Use.

    c. **CRE district**. In the CRE district, a fitness center use shall not be located in an RR10 land use designation of the Comprehensive Plan.

40. Flea market, enclosed means retail sales within a building permanently enclosed by walls and roof in which floor space is rented to individual merchants to display and sell goods. An enclosed flea market use shall comply with the following supplementary use standards:

a. **Walls or partitions.** Walls or partitions shall be allowed separating individual rental spaces from each other, provided that they are temporary in nature.

41. Flea market, open means an outdoor retail sales area in which parcels of land are rented to individual merchants to display and sell goods. An open flea market use shall comply with the following supplementary use standards:

a. **Sanitary facilities.** Required sanitary facilities shall be maintained in a permanent structure on the premises.

42. Fruit and vegetable market means an establishment engaged in the retail sale of fruits, vegetables, flowers, containerized house plants and other agricultural food products, such as jelly, jam, honey, and juice. The sale of grocery or convenience-type foods or products shall not be permitted. In addition to the property development regulations contained in this code, all fruit and vegetable markets shall comply with the following standards:

a. **Size and configuration.** For the purposes of this section, the square footage of the establishment shall include both the structure and all accessory areas devoted to display or storage.

b. **Outdoor display and storage.** Outdoor storage shall be subject to the provisions contained in Sec. 6.6.A.3 of this code. Outdoor display of only fresh fruits and vegetables is permitted, along the property's frontage, except within the required setbacks.

c. **Uses.** The use shall be limited to those uses identified above. No additional special permits shall be permitted in conjunction with the stand except for seasonal sales. Seasonal sales that require additional storage area may be permitted in accordance with Sec. 6.4.D.83 of this code. No vending machines or other similar equipment shall be permitted on site.

d. **Building construction.** The fruit and vegetable market shall be contained in either an entirely enclosed or roofed open air structure. Motor vehicles, including vans, trucks, semi-trucks, mobile homes, travel trailers, and other permanent or temporary structures shall not be used for storage or display purposes.

e. **Sanitation.** Sanitary facilities shall be provided in accordance with the laws of Palm Beach County and State of Florida, as applicable.

f. **Site development standards.** The property shall be developed in accordance with the provisions set forth in this code, unless otherwise provided in subsection 6.4.D.42.h.v. below.

g. **Residential buffers.** Markets located on property adjacent to a residential zoning district shall install landscape compatibility buffer alternatives 1, 2, 3, or 4, as defined in Sec. 7.3., for the length of the property line required to screen the market and accessory parking area.

h. **AR/Rural, SA, AGR, or RSER districts.** In addition to the above standards, fruit and vegetable markets shall comply with the following:

i. **Locational criteria.** The stand and accessory area shall be:
a. located on an arterial designated on the Palm Beach County Thoroughfare Plan;
b. located at least 500 feet from adjacent existing residential uses.

ii. **Lot size.** The market shall be located on a legal lot of record. A minimum of one acre shall be allocated to the exclusive use of the stand and accessory parking area.

iii. **Setbacks.** The structure and accessory area shall be setback at least fifty (50) feet from the front and side corner property lines. The rear and side interior setbacks shall meet the minimum standards of the district.

iv. **Intensity in the AR zoning district.** In the AR zoning district, the area devoted to the fruit and vegetable market shall not exceed 3,000 square feet.

v. **Markets less than 1,500 square feet.** In addition to the standards stated above, fruit and vegetable markets less than 1,500 square feet (including both the structure and all accessory areas devoted to display or storage) in all zoning districts referenced above, may apply the following less restrictive development standards:

(a) **Paving.** The surface parking lot may be constructed of shellrock or other similar material. At a minimum, the following areas shall be paved in accordance with Sec. 7.2.C.12.b.(3) of this code:
(1) a paved driveway apron area, connecting the right-of-way to the site shall be subject to approval by the County Engineer; and,
(2) handicap parking spaces and handicap access.

(b) **Landscaping.** Landscaping shall be required, in accordance with Sec. 7.3, as follows:
(1) along all perimeters of the site abutting rights-of-way or residentially zoned property;
(2) if the parking area exceeds the minimum parking requirement by more than 50 percent, then the site shall comply with the minimum tree planting and interior landscape requirements of Sec. 7.3.

(c) **Vegetation.** Existing vegetation shall be preserved in accordance with Sec. 7.6 of this code.

43. Funeral home means an establishment engaged in preparing the human deceased for burial and arranging and managing funerals. A funeral home use shall comply with the following supplementary use standards:

a. **RSER district.** In the RSER district, the water supply, sewage disposal and disposal of wastewater from embalming operations shall be in accordance with the requirements of the PBCPHU. The funeral home shall not include a crematory.

b. **CC district.** In the CC district, a funeral home use shall not include a crematory.

c. **CG district**. In the CG district, a funeral home use may include a crematory only if located within the principal building.

d. **IL district**. In the IL district, a funeral home use shall be limited to an embalming service. A crematory facility must be approved through the State Department of Environmental Regulation. No public observances, sermons or funerals shall be held in the IL district. Disposal of wastewater from embalming operations shall be in accordance with the requirements of the PBCPHU or approval of disposal to public water or sewer shall be through the local utility.

44. Garage sale means the casual sale of household articles by occupants of private households. A garage sale use shall be subject to the following supplementary use standards:

a. **Duration**. An individual garage sale shall not exceed seventy-two (72) hours.

b. **Number**. The number of garage sales shall be limited to two (2) per year per dwelling unit.

45. Golf course means a facility providing a private or public golf recreation area designed for executive or regulation play along with accessory golf support facilities, but excluding miniature golf. A golf course facility shall comply with following supplementary use standards:

a. **Clubhouse facility.** A golf course use may also include a clubhouse facility. The clubhouse is the control center for the golf course and its primary function is to serve as the place where golfers register daily, and pay fees for the use of the golf facility. The size of the clubhouse and the services it provides may vary with local conditions and intensity of use. The clubhouse facility must be indicated on the site plan during the approval process and must meet all concurrency standards, and standards of this Code including parking and landscaping. Services the golf clubhouse may provide include various combinations of the following: locker rooms, shower rooms, dining room, snack bar, lounge, manager's office, proshop (where golf merchandise may be purchased), caddy and golf cart storage room, and recreation room reserved for special activities of clubhouse members.

b. **Fencing.** Fences, walls or hedges shall be erected if deemed necessary to protect neighboring property, automobiles, pedestrians or bicyclists, from golf balls that are hit beyond golf course boundaries.

46. Government services means buildings or facilities owned or operated by a government entity and providing services for the public, excluding utility and recreational services. Typical uses include administrative offices of government agencies, public libraries, and police and fire stations. A government services use shall be subject to the following supplementary use standards:

a. **CN and CLO districts.** In the CN and CLO districts, a government services use, except for a fire station, shall be limited to a maximum of one thousand five hundred (1,500) square feet of gross floor area.

b. **CRE district.** In the CRE district, a government services use, except for a fire station, shall not be located within three hundred fifty (350) feet of any residential district.

c. **Prisons.** Jails, correctional facilities and prisons shall only be permitted in the PO District and shall be subject to Class A Conditional Use review and approval. Expansion of existing facilities shall be exempt from this requirement.

47. Groom's quarters means on-site living quarters for persons responsible for grooming and caring for horses boarded at the stable. Groom's quarters may be permitted as an accessory use, subject to compliance Sec. 5.5 (Special Use Permits) and the following standards:

a. **Number of units.** A maximum of one (1) groom's quarters not to exceed five hundred (500) square feet in area shall be permitted for each four (4) stalls.

b. **Facilities.** Groom's quarters may contain individual cooking facilities and/or one (1) common dining facility.

c. **Renewal of Special Permit.** The special permit shall be renewed annually in accordance with Sec. 5.5.E.9. of this code.

47.1 Groves/row crops means the cultivation of fruits and vegetables for bona-fide agricultural purposes. Groves/row crops within the Urban Service Area shall comply with the following supplementary use standards:

a. **Setbacks.** Structures and accessory activities shall be setback a minimum of fifty (50) feet.

b. **Buffering.** A buffer adjacent to residentially zoned shall be provided along all property lines that are not screened by plant material. The buffer shall consist of one (1) tree per thirty (30) linear foot plus hedges twenty-four (24) inches in height and twenty-four (24) inches on center.

c. **Equipment.** Use of heavy equipment, except irrigation pumps, shall be limited to daylight hours.

d. **Loading.** All loading and unloading of trucks shall be restricted to the site and shall not encroach on any setbacks.

e. **Office.** An office may be permitted as an accessory use provided it is not a mobile home.

f. **Minimum lot size.** In the Urban Service Area, the minimum lot size shall be five (5) acres.

g. **Compatibility.** The use shall assure that there is no incompatibility with surrounding land uses. In the event that an incompatibility exists, the petitioner shall satisfactorily mitigate the incompatibility prior to receiving conditional or DRC approval. The Board of County Commissioners may impose conditions to the approval including but not limited to: controlling objectionable odors; fencing; sound limitations; inspections; reporting or monitoring; preservation areas; mitigation; and/or limits of operation.

h. **Preservation.** The use shall conform with all preservation, and vegetation removal requirements of the Palm Beach County ULDC for the underlying permitted use, and shall conform with the provisions of Secs. 7.6 Vegetation Protection, Secs. 9.2 (Environmentally Sensitive Lands) and 9.4 (Wetlands Protection) of this Code. A minimum setback (buffer) of one hundred (100) feet shall surround all designated wetland areas.

i. **Spraying.** No aerial application of any pesticides, fungicides, fertilizers or any other chemical shall be allowed. In the event that overspraying of pesticides, fungicides, fertilizers, herbicides or any other chemical is experienced, the petitioner shall provide an increased buffer to insure that no further overspraying will occur, or will cease to operate.

j. **Notification.** Notification of the existence of the agricultural operation shall be submitted to the South Florida Water Management District.

47.2 Guest cottage means accessory sleeping quarters provided for non-paying guests by the occupant of a principal single family dwelling unit. A kitchen is not permitted in a guest cottage. A guest cottage shall be considered an accessory use to a single family home and shall comply with the following supplementary use standards:

a. **Occupancy.** Occupancy of accessory dwelling shall be limited to a non-paying guest for a period not to exceed eight (8) months per year.

b. **Number of units.** A maximum of one (1) guest cottage may be permitted as an accessory use to a principal single-family dwelling unit. The accessory dwelling may be attached to the principal dwelling unit or may be freestanding.

c. **Cooking facilities.** There shall be no cooking facilities contained within the guest cottage.

d. **Architecture.** The accessory dwelling shall be constructed of materials substantially equivalent to the principal dwelling unit, provided that such materials comply with all other applicable standards of the building code.

e. **Compatibility.** The accessory dwelling shall be compatible in character and subordinate in size to the principal dwelling unit.

f. **Setbacks.** The accessory dwelling shall comply with the minimum yard setbacks applicable to the principal single-family dwelling unit.

g. **No separate ownership.** The accessory dwelling shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and shall not be subdivided or sold as a condominium.

48. Gun club enclosed or open means a facility used for the discharge of firearms or projectiles at targets. An enclosed or open gun club or shooting range facility shall comply with the following supplementary standards:

a. **District regulations.** An enclosed or open gun club use shall be subject to review as reflected in Table 6.4-1 of this section.

b. **Setbacks and buffers.**
   (1) **Enclosed gun club.** An enclosed gun club shall have a one hundred (100) foot setback in addition to a fifty (50) foot buffer from a residentially occupied or zoned property. These setbacks are in addition to the minimum required setbacks of the district.
   (2) **Open gun club.** An open gun club and its accessory shooting areas shall have a three hundred (300) foot setback in addition to a one hundred (100) foot buffer from residentially occupied or zoned property. These setbacks are in addition to the minimum required setbacks of the district.

c. **Lot size.** Except in the IL district, the gun club use must be located on a minimum of five (5) acres or meet the minimum lot and setback requirements of the district in which it is located, whichever requires a greater lot size.

49. Gun (Shooting) Range, private. A private gun range shall be allowed in the AP, AR, SA and AGR district based on compliance with the following supplementary standards:

a. **Private use only.** A private open or enclosed gun range shall not be used for commercial purposes or by the general public.

b. Required Lot Size, Buffer and Approval Process:

(1) **Enclosed private gun range:** An enclosed private gun range shall be located on a lot of five (5) acres or greater, and shall be subject to special permit issued by the Zoning Director. Further, an enclosed shooting gun range shall have a one hundred (100) foot setback and an additional fifty (50) foot buffer from residentially occupied property in addition to the required minimum setbacks.

(2) **Open private gun range:** Certain requirements for open private gun ranges vary based on location of proposed range and type of weapons to be fired. An outdoor gun range use for small caliber and rim fire shall have a one hundred (100) foot setback and an additional fifty (50) foot buffer from residentially occupied property. An outdoor gun range for large caliber or center fire shall have a three hundred (300) foot setback and an additional one hundred (100) foot buffer from residentially occupied property. These setbacks are in addition to the required minimum setbacks. The discharge of firearms shall not occur within three hundred (300) yards of a structure. The shooter must have the written permission of the property owner. Also, a bullet trap is required in all locations.

(a) **Small caliber and rim fire.** The open firing of handguns of twenty-two (22) calibers and less which are rim-fire or the firing of any type of shotgun shall be allowed on lots of 2.5 acres or greater. A private gun range use which lies east of the L-40 canal, as defined below, shall be subject to DRC approval. A private gun range use which lies west of the L-40 canal, as defined below, shall require a special permit approved by the Zoning Director.

(b) **Larger caliber or center-fire.** The open firing of any center-fire gun or of handguns of more than twenty-two (22) calibers shall require a minimum lot size of ten (10) acres. A private gun range located east of the L-40 canal, as defined below, shall be subject to Class A Conditional Use approval. A private gun range located west of the L-40 canal, as defined below, shall be subject to DRC review and approval.

(c) **L-40 Canal.** For the purpose of this subsection, the boundaries of the L-40 Canal are: From the Broward County Line north along Canal L-36 to the Loxahatchee National Wildlife Refuge. Thence north to Southern Boulevard along Canal L-40. Thence west along Southern Boulevard to a north-south line 1-1/2 miles west of Canal L-8, which coincides with a private agricultural road heading north from Southern Boulevard at that point where State Road 880 intersects Southern Boulevard from the south . Thence north along the line of this north-south road to the boundary of the J.W. Corbett Wildlife Management Area. Thence east and north along the boundary at the J.W. Corbett Wildlife Management Area to the Martin County Line.

50. Home occupation means a business, profession, occupation or trade conducted within a dwelling unit for gain or support by a resident of the dwelling unit pursuant to the limits of this code. A home occupation shall be subject to the following supplementary use standards:

a. **Incidental nature.** The home occupation shall be clearly incidental and secondary to the residential use of the building and shall be confined to no more than ten (10) percent of the total floor area of the dwelling.

b. **Location.** A home occupation with the exception of outside instructional services, shall be conducted within the principal dwelling or off-site, and shall not be conducted within any accessory building or structure or within any open porch or carport that is attached to and part of the principal structure. Instructional services, which by their nature, must be conducted outside of the principal structure, such as swimming lessons, shall be located in a rear or side yard.

c. **No change to character of dwelling.** The home occupation shall not change the essential residential character of the dwelling in terms of exterior appearance and interior space.

d. **Employees.** A home occupation use shall be conducted by a member of the immediate family residing in the dwelling unit. A maximum of one (1) person who is not a member of the immediate family may assist in the operation of the home occupation. In addition, only one (1) person outside of the home may be employed by the service provided by the home occupation.

e. **Occupational license.** A home occupation shall be operated pursuant to a valid occupational license for the use held by the resident of the dwelling.

f. **No advertising.** No external evidence or sign shall advertise, display, or otherwise indicate the presence of the home occupation, nor shall the street address of the home occupation be advertised through signs, billboards, television, radio or newspapers. Advertising on vehicles shall be limited to the minimum necessary to meet code requirements as mandated by PBC Contractors Certification Division Chapter 67-1876, or Fla. Stat. Sec. 489.

g. **No on-premise sales.** A home occupation shall not involve the sale of any stock in trade, supplies, products or services on the premises, except for home instructional services.

h. **Instructional Services.** Instructional services may be approved as home occupations, provided the services meet the following additional regulations.
   (1) **Resident.** The instruction must be conducted by a resident of the dwelling where lessons are provided. Only one instructor shall be permitted to provide instruction. The occupational license shall be issued to the instructor.
   (2) **Insurance.** Proof of liability insurance in the amount of at least $300,000 covering the instructional service shall be submitted to obtain the home occupation.
   (3) **Cars.** No more than two (2) cars associated with the lessons shall be permitted to be parked at the instructor's home at a time.
   (4) **Location, inside.** Home instruction, inside.
      (a) **Number of students.** A maximum of three (3) students at a time shall be permitted to receive instruction during a lesson.
      (b) **Hours of operation.** Instruction shall occur only between the hours of 9:00 a.m. and 8:00 p.m.
   (5) **Location, outside.** Home instruction, outside.
      (a) **Lots less than 1.25 acres.** On lots of less than one and one quarter (1.25) acres only one student at a time shall be permitted to receive instruction during a lesson.
      (b) **Larger lots.** On lots that are one and one quarter (1.25) acres or larger, up to three students at a time shall be permitted to receive instruction during a lesson.
      (c) **Hours of operation.** Outside instruction shall occur only between the hours of 9:00 a.m. and 8:00 p.m.

(d) **Screening.** On lots of two and one-half (2.5) acres or less, the instruction area shall be screened from view from adjoining property lines with fencing or vegetation.

i. **No outside storage.** No equipment or materials used in the home occupation shall be stored or displayed outside of the dwelling including driveways.

j. **Nuisances prohibited.** No home occupation shall involve the use of any mechanical, electrical or other equipment, materials or items which produce noise, electrical or magnetic interference, vibration, heat, glare, smoke, dust, odor or other nuisance outside the residential building. There shall be no storage of hazardous or noxious materials on the site of the home occupation. There shall be no noise of an objectionable nature from the home occupation audible at adjoining property lines.

k. **Violations or hazard.** If any of the above requirements are violated, or if the use, or any part thereof, is determined by the Zoning Director to create a health or safety hazard, then the occupational license may be revoked.

l. **Number.** Only one home occupation shall permitted on any lot.

51. Hotel, motel, SRO, boarding and rooming house means a commercial establishment used, maintained or advertised as a place where sleeping accommodations are supplied for short term rent to tenants, in which rooms are furnished for the accommodation of such guests, which may have as an accessory use one or more dining rooms. Typical uses include hotels, motels, single room occupancy (SROs) and rooming and boarding houses. A hotel or motel use shall comply with the following supplementary use standards:

a. **CHO and CG districts.** In the CG and CHO districts, the following supplementary standards shall apply to a hotel or motel use.
   (1) **Minimum lot size.** The minimum lot area shall be one (1) acre or the minimum required by the district, whichever is greater.
   (2) **Minimum lot width.** The minimum lot width shall be at least one hundred (100) feet or the minimum required by the district, whichever is greater.
   (3) **Density.** The number of sleeping units shall not exceed one (1) per one thousand (1,000) square feet of lot area.

b. **SRO (single room occupancy).** SROs are permitted only in the CHO and CG districts, and the following supplementary standards shall apply to a single room occupancy use. An SRO establishment shall be used or maintained for occupancy as an alternative to primary type housing. The facility will customarily include one kitchen, sleeping and bath facility per person, or shared bath or kitchen facilities.

c. **RH district.** A rooming and boarding house shall be permitted in the RH district. All other commercial hotel and motel establishments are prohibited in the RH district.

d. **CRE district.** In the CRE district, a hotel or motel use shall not be located in an RR10 land use designation of the Comprehensive Plan.

e. **Accessory Lounge.** A hotel may have an accessory lounge not to exceed to twenty-five percent (25%) of the gross floor area of the hotel, exclusive of parking.

52. **Hospital or medical center** means a facility licensed by the State of Florida which maintains and operates organized facilities for medical or surgical diagnosis, care, including overnight and outpatient care, and treatment of human illness. A hospital is distinguished from a medical center by the provision of surgical facilities. A hospital or medical center use shall be subject to the following supplementary use standards:

a. **SA district.** In the SA district, a hospital or medical center use shall be limited to public health or government operated clinics servicing the rural community.

b. **Minimum lot area.** The minimum lot area shall be five (5) acres or the minimum requirement of the district, whichever is greater.

c. **Frontage.** The minimum frontage for the lot shall be three hundred (300) feet or the minimum requirement of the district, whichever is greater.

d. **Density.** The number of patient rooms for the hospital or medical center shall not exceed one (1) patient room for each one thousand (1,000) square feet of lot area (43.56 patient rooms per acre).

e. **No housekeeping.** Rooms or suites of rooms shall not be designed, altered or maintained for housekeeping or family living purposes.

f. **Food preparation.** The preparation of food shall be accomplished at a central kitchen facility under the auspices of a trained nutritionist. Meals may be served to persons in their rooms.

g. **Heliport or helipad.** Accessory heliport or helipad is permitted provided the use is explicitly requested during the approval process, or approved separately by DRC review.

h. **Incinerators.** Biohazardous waste incinerators with an allowable operating capacity equal to or less than one thousand (1,000) pounds per hour are permitted as an accessory to a hospital use with the following supplementary use standards:

(1) **Setbacks.** An incinerator use shall be set back a minimum of five hundred (500) feet from any property line abutting a residential district or use. Incinerators approved prior to the effective date of this section shall not be considered nonconforming uses. Expansion of existing facilities may be allowed with lower setbacks provided the expansion is reviewed and approved by the DRC.

(2) **Regulations.** An incinerator use shall be subject to all applicable rules and regulations of the FDER (including Chapter 17-2, F.A.C.), the Solid Waste Authority and the PBCPHU.

(3) **Site plan.** A site plan shall be provided illustrating how the operation functions including circulation routes and their locations, square footage, height and location of buildings, incinerator and storage areas.

i. **Autoclaves.** Biohazardous waste autoclaves are permitted as an accessory to a hospital use with the following supplementary use standards:

(1) **Regulations.** An autoclave use shall be subject to all applicable rules and regulations of the FDER (including Chapter 17-2, F.A.C.), the Solid Waste Authority and the PBCPHU.

(2) **Site plan.** A site plan shall be provided illustrating how the operation functions including circulation routes and their locations, square footage, height and location of buildings, autoclave and storage areas.

53. **Kennel, commercial** means a commercial establishment, including any building or land used, for the raising, boarding, breeding, sale or grooming of such domesticated animals as dogs and cats, not necessarily owned by the occupants of the premises, for profit. A commercial kennel use may be operated in conjunction with a residence and shall be subject to the following supplementary use standards:

a. **Limitations of use.** A commercial kennel use shall be limited to the raising, breeding, boarding, sale, and grooming (herein after collectively referred to as "commercial care") of domesticated animals such as dogs and cats. In addition, the commercial care of snakes or birds may be permitted provided this use is explicitly requested during the approval process.

Care of domestic animals is subject to the Division of Animal Care and Control. The keeping of wild or exotic animals is subject to the regulations of the Florida Game and Fresh Water Commission.

b. **Minimum lot size.** The minimum lot size shall be two (2) acres.

c. **Frontage.** The minimum required frontage on a public road to be used for the primary point of access shall be one hundred (100) feet.

d. **Setbacks.** No structure or outdoor run shall be located within twenty-five (25) feet of any property line.

e. **Outdoor runs.** Outdoor runs shall be hard surfaced or grassed with drains provided every ten (10) feet, and shall be connected to an approved sanitary facility. Outdoor runs shall provide a chain-link material on the walls and the top. If necessary to protect the general public, safety fences of up to a height of six (6) feet shall be required on outdoor runs. If necessary to protect neighboring property, a landscape screen of at least seventy-five (75) percent opacity shall be provided around the outdoor run.

f. **SA district.** In the SA district on land designated RR10 in the Future Land Use Element of the Comprehensive Plan a commercial kennel shall have a minimum of ten (10) acres and shall have two hundred (200) foot setback from residentially occupied or zoned property in addition to the required minimum setbacks. The commercial kennel may be located on a local street in the SA district. The commercial kennel must meet the ECR I and ECR II standards of Article 16.

54. Kennel, private means any building used, designed or arranged to facilitate the non-commercial care of dogs cats owned by the occupants of the premises. A private kennel use shall comply with the following supplementary use standards:

a. **Limitations of use.** A private kennel use shall be established for non-commercial purposes only, and animals residing in a private kennel shall belong solely to occupants of the premises. Property size and restrictions on numbers of animals shall be regulated according to the PBC Division of Animal Care and Control.

b. **Setbacks.** No outdoor runs or structures associated with the private kennel shall be located within twenty-five (25) feet of any property line.

c. **Outdoor runs.** If necessary to protect the general public, safety fences of up to a height of six (6) feet shall be required on outdoor runs. If necessary to protect neighboring property, a landscape screen of at least seventy-five (75) percent opacity shall be provided around the outdoor run.

55. Landscape maintenance service means an establishment engaged in the provision of landscape installation or maintenance services, but excluding retail or wholesale sale of plants or lawn and garden supplies from the premises. A landscape maintenance service in the AR district use shall be subject to the following supplementary use standards:

a. **Location.** In the AR district, a landscape maintenance service use shall be located on a collector street.

b. **Minimum lot size.** The minimum lot size shall be three (3) acres.

c. **Landscape Maintenance service as a home occupation.**
   (1) **Requirements.** A landscape maintenance service may be operated as a home occupation pursuant to all requirements of Sec. 6.4.D.50 of this Code.
   (2) **Buffering.** Property adjacent to a residential zoning district shall be subject to compatibility requirements of the landscape code Sec. 7.3.E.
   (3) **Storage.** No outdoor storage or accumulation of debris shall be permitted.
   (4) **Screening.** Outdoor storage of equipment shall be completely screened from view, from roads and adjacent properties with native vegetation.

d. **Landscape maintenance service as a principal use.**
   (1) **Equipment.** A landscape maintenance operated as a principal use may not store or have on-site landscape installation equipment nor vehicles over one-and-one half (1.5) tons.
   (2) **Buffering.** Any property adjacent to a residential zoning district shall install the Alternate 4 landscape compatibility strip in Sec. 7.3.E.
   (3) **Storage.** No outdoor storage or accumulation of debris shall be permitted.
   (4) **Screening.** Outdoor storage of equipment shall be completely screened from view, from roads and adjacent properties with native vegetation.

56. Laundry services means an establishment that provides home-type washing, drying, drycleaning, or ironing machines for hire, to be used by customers on the premises, or that is engaged in providing household laundry and dry cleaning services with customer drop-off and pick-up. A laundry service use shall comply with the following supplementary standards:

a. **CN district.** In the CN district, a laundry service use shall not exceed one thousand five hundred (1,500) square feet of gross floor area.

b. **CC district.** In the CC district, a laundry service use shall not exceed five thousand (5,000) square feet of gross floor area.

c. **Size.** Any laundry service use over fifteen thousand (15,000) square feet shall be a Class A Conditional Use or a Requested Use, whichever is applicable.

56.1 Livestock raising means the breeding, raising and caring for animals that are used for products. Livestock shall include horses. In the Urban Services Area, livestock raising shall comply with the following supplementary use standards:

a. **Minimum lot size.** The minimum lot size for livestock raising shall be five (5) acres.

b. **Setbacks.** All accessory uses such as troughs, feed mechanisms and storage shall be setback a minimum of one hundred (100) feet.

c. **Palm Beach County Animal Control Department.** The Palm Beach County Animal Control Department shall be notified as to the type of livestock and details of animal care to be provided.

d. **Processing and Slaughtering.** Processing and slaughtering shall be prohibited.

e. **Loading.** All loading and unloading of trucks shall be restricted to the site and shall not encroach on any setbacks.

f. **Waste.** A plan outlining a method of waste removal shall be submitted to and approved by the County Health Department.

g. **Compatibility.** The use shall assure that there is no incompatibility with surrounding land uses. In the event that an incompatibility exists, the petitioner shall satisfactorily mitigate the incompatibility prior to receiving conditional or DRC approval. The Board of County Commissioners may impose conditions to the approval including but not limited to: controlling objectionable odors; fencing; sound limitations; inspections; reporting or monitoring; preservation areas; mitigation; and/or limits of operation.

h. **Preservation.** The use shall conform with all preservation, and vegetation removal requirements of the Palm Beach County ULDC for the underlying permitted use, and shall conform with the provisions of Secs. 7.6 Vegetation Protection, Secs. 9.2 (Environmentally Sensitive Lands) and 9.4 (Wetlands Protection) of this Code. A minimum setback (buffer) of one hundred (100) feet shall surround all designated wetland areas.

i. **Spraying.** No aerial application of any pesticides, fungicides, fertilizers or any other chemical shall be allowed. In the event that overspraying of pesticides, fungicides, fertilizers, herbicides or any other chemical is experienced, the petitioner shall provide an increased buffer to insure that no further overspraying will occur, or will cease to operate.

j. **Notification.** Notification of the existence of the agricultural operation shall be submitted to the South Florida Water Management District.

57. Lounge, cocktail means a use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, lounges, and similar uses other than restaurants or alcohol sales for off-premises consumption. A cocktail lounge is distinct from a restaurant that sells alcohol when the establishment cannot qualify for a "Consumption on Premises, Special Restaurant Exemption" pursuant to the State Beverage Law. A cocktail lounge use shall be subject to the following supplementary use standards:

a. **CN district.** In the CN district, a cocktail lounge use shall not consist of more than one thousand (1,000) square feet of gross floor area.

b. **CHO district.** In the CHO district, a cocktail lounge use shall be contained within an office, hotel or motel structure and shall be limited to a total floor area that does not exceed thirty (30) percent of the gross floor area of the entire structure excluding vehicular parking and service areas.

c. **CG district and Planned Development Districts .** Unless approved as a Class A Conditional Use in the CG district, or a Requested Use in a Planned Development District, a cocktail lounge use shall not be located within two hundred fifty (250) feet of a residential district, measure by drawing a straight line between the nearest point on the perimeter of the exterior wall or bay housing the proposed lounge to the nearest point on the property line of the residential district, nor within seven hundred fifty (750) feet of another cocktail lounge use, measured by drawing a straight line between the nearest point on the perimeter of the wall or bay of the proposed lounge to the nearest point on the existing lounge.

d. **Outdoor areas.** Outdoor and open lounge areas shall be subject to the compatibility requirements of Sec. 7.3.E.3.b (Compatibility landscape buffer strips), and shall be subject to additional site design requirements to protect neighboring residential districts or uses against negative impacts from the open lounge area.

58. Machine or welding shop means a workshop where machines, machine parts, or other metal products are fabricated. Typical uses include machine shops, welding shops and sheet metal shops. A machine or welding shop use shall be subject to the following supplementary use standards:

a. **IL district.** In the IL district, a machine or welding shop use shall not exceed two thousand (2,000) square feet of gross floor area unless approved as a Class "B" Conditional use.

59. Marine facility means a commercial facility relating to boating. Typical uses include boatdocks, marinas, boatyards, yacht clubs and marina boatels. A marine facility use shall be subject to the following supplementary use standards:

a. **CRE and CHO districts.** In the CRE and CHO districts, boatyards shall be prohibited.

b. **Dock length.** All docks, buildings or other structures shall extend beyond the shallow water depth in accordance with ERM regulations.

c. **Sewage and water facilities.** All marine facilities shall provide at each boat slip an individual sewer and water hook-up that shall be connected to a sewage and potable water supply system approved by the PBCPHU.

d. **Boatel units.** The total number of units in a boatel shall be prorated on the basis of one thousand (1,000) square feet of dry land lot area for each unit.

e. **Setbacks.** Dry storage of boats and other marina related uses may be placed against the water's edge.

f. **Boatyards and charter boat operations.** Boatyards and charter boat operations shall be a Class "B" Conditional use in the IL district. Parking requirements for such activities shall be determined based on the characteristics of the proposed use.

60. Medical or dental office or clinic means an establishment where patients, who are not lodged overnight are admitted for examination or treatment by one (1) person or group of persons practicing any form of healing or health-building services to individuals, whether such persons be medical doctors, chiropractors, osteopaths, chiropodists, naturopaths, optometrists, dentists, or any such profession, the practice of which is lawful in the State of Florida. A medical office or dental clinic use shall comply with the following supplementary standards:

a. **CN district.** In the CN district, a medical office or dental clinic use shall not exceed one thousand five hundred (1,500) square feet of gross floor area per use, and shall not exceed eight thousand (8,000) square feet of gross floor area per lot, unless approved as a Class A Conditional Use.

b. **SA, AP, AGR district.** In the SA, AP and AGR districts, a medical office or dental clinic use shall be limited to public health or government owned clinics servicing the rural community.

61. Migrant farm labor quarters means one (1) or more residential buildings occupied or intended for seasonal occupancy by transient farm workers who are employed by the owner of the farm. A migrant farm labor quarters and camp use shall be subject to the following supplementary use standards:

a. **SA district.** In the SA district, no migrant farm labor quarter and camp use shall be permitted within an RR10 land use designation in the Future Land Use Element of the Comprehensive Plan.

b. **Buffering and screening.** There shall be a twenty-five (25) foot buffer surrounding migrant farm labor quarters in all zoning districts. Buffer strips shall be landscaped pursuant to Sec. 7.3.E to ensure compatibility with surrounding land uses.

62. Mobile home dwelling means the use of a lot or a unit for one (1) mobile home. A mobile home dwelling shall not be used for storage in any district. A mobile home dwelling shall be subject to the following supplementary use standards:

a. **Accessory dwelling to agriculture.** In the AR district, a mobile home dwelling shall be permitted as an accessory use to a principal bona fide agricultural use on a minimum of ten (10) acres in the LR1, RR10, AP and AGR land use designation in the Future Land Use Element of the Comprehensive Plan and on a minimum of twenty (20) acres in the RR20 land use designation in the Future Land Use Element of the Comprehensive Plan, subject to the following standards:
   (1) **Permits.** Permits and inspections for trailer tie-down and, electric, water supply and sewage disposal facilities are approved by all governmental agencies having appropriate jurisdiction.
   (2) **R-O-W setback.** The mobile home shall be set back a minimum of two hundred (200) feet from the public road rights-of-way.
   (3) **Property setback.** The mobile home shall be set back a minimum of one hundred (100) feet from other property lines other than public road rights-of-way.
   (4) **Additions.** No additions shall be permitted to the mobile home, except awnings demountable screen panels, stairs, decks and trellises.
   (5) **Number.** Where more than one (1) mobile home is authorized for a parcel of land, the mobile homes shall be separated by a minimum distance of twenty (20) feet.
   (6) **Separation.** The mobile home shall be separated from an existing single-family dwelling unit by a minimum of two hundred (200) feet.
   (7) **Unity of title.** A unity of title document shall be executed and recorded.
   (8) **Special permit.** A special permit shall be obtained.

b. **Temporary dwelling during home construction.** In the AR and CRS districts, placement of a mobile home dwelling shall be permitted on a temporary basis subject to the following standards:
   (1) **Agency approval.** Sanitary sewage facilities shall be approved by all governmental agencies having appropriate jurisdiction, permits, and inspections for the installation must be obtained from the PZB Department.
   (2) **Building permit.** A valid building permit for a single-family dwelling unit on the land shall have been approved by the Building Director.
   (3) **Special permit.** A special permit valid for one year shall be obtained. Requests for extensions of time beyond the initial one (1) year approval must be made on forms prescribed by PZB. In no case shall the total time exceed a maximum of two (2) years for the initial approval and subsequent extension.
   (4) **Removal agreement.** Execution of a notarized Mobile Home Removal Agreement, which establishes that the mobile home shall be removed within thirty (30) days after certificate of occupancy or at the end of the maximum two (2) year timeframe. Additionally, the building permit shall be stamped with the requirement to remove the mobile home within thirty (30) days after c/o is issued.
   (5) **Additions.** No additions shall be permitted to the mobile home, except awnings and demountable screen panels, stairs, decks and trellises.

63. Mobile home park means a planned development district approved according to Sec. 6.8, Planned Development District Regulations. A mobile home park use shall be permitted only in the MHPD, Mobile Home Park Planned Development District.

64. Motion picture production studio means the use of a lot or building for the production of films or videotapes for exhibition or sale. A motion picture production studio use shall comply with the following supplementary use standards:

a. **CHO and CG districts.** Motion picture production studios shall be located as least three hundred and fifty (350) feet from a residential district. Accessory offices shall meet the setbacks of the district.

b. **Temporary film permit.** A temporary film permit to allow locational shooting for a period of less than three (3) weeks may permitted with an approved special permit from the Zoning Division. This permit may be issued in all districts subject to the following requirements:
   (1) **Coordination.** The Director of the Film Liaison Office shall coordinate with the Zoning Director to schedule the proposed film shooting.
   (2) **Conditions.** Reasonable conditions of approval shall be recommended which are designed to mitigate any anticipated impacts on neighboring properties.
   (3) **Renewal.** One (1) additional renewal may be granted for an additional three (3) weeks, for a maximum duration of six (6) weeks.

c. **Extended film permit.** An extended film permit shall be issued for a period greater than three (3) weeks but not to exceed six (6) months plus three (3) additional renewals thereof, each of which may not exceed six (6) months. The duration of the permit with extensions shall not exceed twenty-four (24) months.
   (1) **Permit.** A permit may be renewed upon the following circumstances;
      (a) **Request.** The applicant has submitted to the Zoning Director a written request for renewal of the Permit and the Zoning Director approves the renewal;
      (b) **Conditions.** The applicant has abided by all conditions of approval;
      (c) **Impacts.** No significant or on going negative impacts on neighboring properties have been identified; and
   (2) **Renewal.** In addition to the above requirements, any renewal that extends beyond one (1) year shall also abide by the following:
      (a) **Amendment.** The property owner shall apply for a Site Specific (Future Land Use Map) amendment to the Comprehensive Plan or an amendment to the Official Zoning Map to allow the film making use on a permanent basis, and shall pursue such application in good faith.
      (b) **Denial.** The rezoning request or Comprehensive Plan Amendment has not been denied.

d. **Film liaison office.** The Director of the Film Liaison Office shall coordinate with the Zoning Director to schedule the proposed film permit.

e. **Public notification.** Courtesy notices are mailed by the applicant to all property owners within a three hundred (300) to five hundred (500) feet radius of the property to be used as a film location for the extended film permits or for a permanent production studio.

f. **Site plan review and approval.** The proposed location and site plan shall be subject to review by the Development Review Committee. Reasonable conditions of approval shall be recommended which are designed to mitigate any anticipated impacts on neighboring properties. Conditions may include but are not limited to duration, restrictions of hours of operation, setback requirements, obtaining approvals from other appropriate agencies, and safety related requirements. The conditions shall be incorporated into the permit approval.

g. **Posting of permit.** A copy of the permit shall be posted on the site by the property owner. Copies of the permit shall be kept by the Zoning Director and the Code Enforcement Director for record keeping purposes. Any violation of these conditions may result in revocation of the permit or code enforcement action.

h. **CRE district.** In the CRE district a permanent motion picture and T.V. production studio shall be permitted subject to a conditional use type A.

i. **IL and IG districts.** In the IL, and IG districts a permanent motion picture and T.V. production studio shall be permitted.

65. **Multi-family** means the use of a structure designed for two (2) or more dwelling units which are attached, or the use of a lot for two or more dwelling units excluding mobile homes. Typical uses include apartments and residential condominiums. A multi-family use shall be subject to the following supplementary use standards:

a. **Accessory uses.** Accessory commercial uses contained within a multi-family structure for the multi-family zoning district, shall be permitted subject to the DRC, provided that the use is limited to a total floor area not to exceed ten (10) percent of the gross residential floor area contained therein, exclusive of vehicular parking and service areas, and limited to such uses as restaurants, delicatessens, and such personal services as beauty shops, barber shops, drug stores and professional offices. This provision is for twenty (20) units or more and utilizing twenty (20) square feet per unit with a maximum of two thousand (2000) square feet per each project or development as indicated on the site or subdivision plan. The accessory use must meet parking requirements subject to Sec. 7.2.

b. **Developments of ten (10) units or more.** Multi-family development consisting of ten (10) or more units shall be subject to Sec. 6.6.A.6. (Multi-family recyclable material storage areas).

66. **Newsstand or gift shop** means a small establishment, occupying no more than one thousand five hundred (1,500) square feet of gross floor area, primarily engaged in the retail sale of gifts, novelties, greeting cards, newspapers, magazines or similar items. A newsstand or gift shop use shall comply with the following supplementary use standards:

a. **CLO and CHO districts.** In the CLO and CHO districts, a newsstand or gift shop use shall not exceed five hundred (500) square feet of gross floor area.

b. **CN district.** In the CN district, a newsstand or gift shop use shall not exceed one thousand five hundred (1,500) square feet of gross floor area for each establishment.

c. **CRE district.** In the CRE district, a newsstand or gift shop use shall be permitted when accessory to a permitted principal use.

66.1 Nursery, retail means the cultivation for wholesale or retail sale of horticultural specialties such as flowers, shrubs, sod, and trees, intended for ornamental or landscaping purposes. A retail nursery in the Urban Services Area shall comply with the following supplementary use standards:

a. **Location.** The use shall be located on a street of collector or higher classification.

b. **Minimum lot size.** The minimum lot size shall be one (1) acre.

c. **Setbacks.** Setbacks shall be as follows:
   (1) Structures and accessory activities shall be setback a minimum of fifty (50) feet except for shadehouses which shall comply with the setbacks enumerated in 6.4.D.87.1.b.(Shadehouse).
   (2) Container plants shall be setback a minimum of fifteen (15) feet.

d. **Loading.** All loading and unloading of trucks shall be restricted to the site and shall not encroach on any setbacks.

e. **Office.** An office may be permitted as an accessory use provided it is not a mobile home.

f. **Minimum lot size.** In the Urban Service Area, the minimum lot size shall be five (5) acres.

g. **Compatibility.** The use shall assure that there is no incompatibility with surrounding land uses. In the event that an incompatibility exists, the petitioner shall satisfactorily mitigate the incompatibility prior to receiving conditional or DRC approval. The Board of County Commissioners may impose conditions to the approval including but not limited to: controlling objectionable odors; fencing; sound limitations; inspections; reporting or monitoring; preservation areas; mitigation; and/or limits of operation.

h. **Preservation.** The use shall conform with all preservation, and vegetation removal requirements of the Palm Beach County ULDC for the underlying permitted use, and shall conform with the provisions of Secs. 7.6 Vegetation Protection, Secs. 9.2 (Environmentally Sensitive Lands) and 9.4 (Wetlands Protection) of this Code. A minimum setback (buffer) of one hundred (100) feet shall surround all designated wetland areas.

i. **Spraying.** No aerial application of any pesticides, fungicides, fertilizers or any other chemical shall be allowed. In the event that overspraying of pesticides, fungicides, fertilizers, herbicides or any other chemical is experienced, the petitioner shall provide an increased buffer to insure that no further overspraying will occur, or will cease to operate.

j. **Notification.** Notification of the existence of the agricultural operation shall be submitted to the South Florida Water Management District.

66.2 Nursery, wholesale means the cultivation for wholesale sale of horticultural specialties such as flowers, shrubs, sod, and trees, intended for ornamental or landscaping purposes. A wholesale greenhouse or nursery use shall comply with the following supplementary use standards:

a. **Limitations of sales.** Sales from a wholesale greenhouse or nursery use are limited to exporters, distributors, landscape contractors, retailers, or other businesses.

b. **Conditions of operation.** Operation of heavy machinery from 5:00 PM to 8:00 AM at a wholesale greenhouse or nursery use is prohibited.

c. **Parking and loading.** All parking and loading associated with any nursery related use shall occur on nursery acreage, and not on access easements, or public or private rights-of-way, or through streets.

d. **AR district.** In the AR district wholesale greenhouse or nursery use may be operated in conjunction with a residence. A wholesale greenhouse or nursery greater than ten (10) acres shall be required to receive a conditional use B approval.

e. **Vegetation removal permit.** A wholesale nursery or greenhouse shall be required to submit a vegetation removal permit.

f. **Buffering requirements.** Wholesale greenhouse or nursery over ten (10) acres adjacent to residential property shall be required to construct a compatibility buffer strip subject to Sec. 7.3 of the Landscape code.

g. **Water use permit.** A wholesale greenhouse or nursery greater than 10 acres shall be required to receive a water use permit from the SFWMD.

h. **Urban Service Area.** In addition to the above standards, a wholesale nursery shall comply with the following standards:

(1) **Minimum lot size.** The minimum lot size shall be one (1) acre.
(2) **Setbacks.** Setbacks shall be as follows:
  (a) Structures and accessory activities shall be setback a minimum of fifty (50) feet except for shadehouses which shall comply with the setbacks enumerated in 6.4.D.87.1.b.(Shadehouse).
  (b) Container plants shall be setback a minimum of fifteen (15) feet.
(3) **Buffering.** A buffer shall be provided along all property lines that are not screened by plant material. The buffer shall consist of one (1) tree per thirty (30) linear foot plus hedges 24 inches on center.
(4) **Equipment.** Use of heavy equipment shall be limited to daylight hours.
(5) **Loading.** All loading and unloading of trucks shall be restricted to the site and shall not encroach on any setbacks.
(6) **Office.** An office may be permitted as an accessory use provided it is not a mobile home.
(7) **Compatibility.** The use shall assure that there is no incompatibility with surrounding land uses. In the event that an incompatibility exists, the petitioner shall satisfactorily mitigate the incompatibility prior to receiving conditional or DRC approval. The Board of County Commissioners may impose conditions to the approval including but not limited to: controlling objectionable odors; fencing;

sound limitations; inspections; reporting or monitoring; preservation areas; mitigation; and/or limits of operation.

(8) **Preservation.** The use shall conform with all preservation, and vegetation removal requirements of the Palm Beach County ULDC for the underlying permitted use, and shall conform with the provisions of Sec. 7.6 (Vegetation Protection), Secs. 9.2 (Environmentally Sensitive Lands) and 9.4 (Wetlands Protection) of this Code. A minimum setback (buffer) of one hundred (100) feet shall surround all designated wetland areas.

(9) **Spraying.** No aerial application of any pesticides, fungicides, fertilizers or any other chemical shall be allowed. In the event that overspraying of pesticides, fungicides, fertilizers, herbicides or any other chemical is experienced, the petitioner shall provide an increased buffer to insure that no further overspraying will occur, or will cease to operate.

(10) **Notification.** Notification of the existence of the agricultural operation shall be submitted to the South Florida Water Management District.

67. Nursing or convalescent facility means an establishment where, for compensation pursuant to a previous arrangement, care is offered or provided for three (3) or more persons suffering from illness, other than a contagious disease, or sociopathic or psychopathic behavior, which is not of sufficient severity to require hospital attention, or for three (3) or more persons requiring further institutional care after being discharged from a hospital, other than a mental hospital. Patients usually require domiciliary care in addition to nursing care. A nursing or convalescent facility use shall be subject to the following supplementary use standards:

a. **Location and access.** If ambulance service is required, a nursing or convalescent facility use shall have access from a collector road designed to minimize the adverse effects on adjacent property. The environment created for a nursing or convalescent facility use should be of a pronounced residential nature and should be designed to minimize any adverse conditions that might detract from the primary convalescent purpose of the facility.

b. **Minimum lot area.** The minimum lot area shall be ten thousand (10,000) square feet in area or the minimum requirement of the district, whichever is greater.

c. **Frontage.** The minimum frontage for the lot on which the nursing or convalescent facility is located shall be one hundred (100) feet, or the minimum requirement of the district, whichever is greater.

d. **Density.** Except in the Rural Services (RSER) district and any land designated RR10 in the Future Land Use Element of the Comprehensive Plan, the number of patient rooms shall not exceed one (1) for each one thousand (1,000) square feet of lot area (43.56 patient rooms per acre). In the Rural Services (RSER) district and any land designated RR10 in the Future Land Use Element of the Comprehensive Plan, patient density shall not exceed one/quarter (.25) patient room for each one thousand (1,000) square feet of lot area, not to exceed twenty patients per acre.

e. **Room size.** Sleeping rooms shall be no less than one hundred (100) square feet for each patient single occupancy or eighty-five (85) square feet for each patient double occupancy.

f. **No housekeeping.** Rooms or suites of rooms shall not be designed, altered or maintained for housekeeping or family living purposes.

g. **Food preparation.** The preparation of food shall be accomplished at a central kitchen facility under the auspices of a trained nutritionist. Meals can be served to persons in their rooms.

h. **Staff.** A nursing or convalescent facility in excess of twenty (20) patients shall have a minimum of one (1) Licensed Practical or Registered Nurse for each floor or for every fifty (50) patients. Facilities with less than twenty (20) patients shall have a Licensed Practical Nurse (LPN) on duty twenty-four (24) hours a day.

i. **Room facilities.** Each patient room shall be equipped with sanitary facilities in addition to audio monitors and call buttons. One (1) bathing facility shall be provided for every ten (10) patients.

j. **Minimum leisure floor area.** At least ten (10) square feet of total floor area per patient shall be devoted to a common area exclusive of halls, corridors, stairs and elevator shafts, wherein a variety of recreational or therapeutic activities shall occur.

68. Office, business or professional means an establishment providing executive, management, administrative or professional services, but not involving medical or dental services or the sale of merchandise, except as incidental to a permitted use. Typical uses include property and financial management firms, employment agencies, travel agencies, advertising agencies, secretarial and telephone services, contract post offices; professional or consulting services in the fields of law, architecture, design, engineering, accounting and similar professions; and business offices of private companies, utility companies, public agencies, and trade associations. A business or professional office use shall be subject to the following supplementary use standards:

a. **CN district.** In the CN district, a business or professional office building shall not exceed eight thousand (8,000) square feet of gross floor area per lot. A contract post office or an office for utility bill collection shall be permitted by right if it occupies less than two thousand (2,000) square feet of gross floor area.

b. **CLO district.** In the CLO district, a business or professional office building shall not exceed eight thousand (8,000) square feet of gross floor area per lot.

c. **CC district.** In the CC district, a business or professional office building shall not exceed fifteen thousand (15,000) square feet of gross floor area per lot.

d. **IL and IG districts.** In the IL and IG districts, only offices accessory to another permitted use and real estate or property management offices for industrial parks shall be permitted.

e. **Accessory Uses.** Except in the CN district, a business or professional office may have a convenience store not exceeding five hundred (500) square feet or twenty-five percent (25%) of the floor area of the gross floor area, exclusive of parking which ever is less. All such uses shall be completely internal to the office and shall not have a separate entrance nor any exterior signage.

68.1 Packing plant. means a facility, accessory to bona fide agriculture, used for the packing of produce not necessarily grown on site. A packing plant in the Urban Service Area shall comply with the following supplementary use standards:

a. **Location**. A packing plant shall be located on a collector or higher classification street.

b. **Minimum lot size**. The minimum lot size for a packing plant shall be ten (10) acres.

c. **Setbacks**. The minimum setback shall be 100 feet from any property line.

d. **Noise**. There shall be no outdoor loud speaker system.

e. **Loading and unloading**. All loading and unloading must be confined to the property and shall not encroach upon the setbacks.

f. **Storage**. Only equipment directly related to products packed at this plant shall be stored on the property and the equipment shall be screened from adjacent property.

g. **Compatibility.** The use shall assure that there is no incompatibility with surrounding land uses. In the event that an incompatibility exists, the petitioner shall satisfactorily mitigate the incompatibility prior to receiving conditional or DRC approval. The Board of County Commissioners may impose conditions to the approval including but not limited to: controlling objectionable odors; fencing; sound limitations; inspections; reporting or monitoring; preservation areas; mitigation; and/or limits of operation.

h. **Preservation.** The use shall conform with all preservation, and vegetation removal requirements of the Palm Beach County ULDC for the underlying permitted use, and shall conform with the provisions of Sec. 7.5 (Vegetation Protection), Secs. 9.2 (Environmentally Sensitive Lands) and 9.4 (Wetlands Protection) of this Code.

A minimum setback (buffer) of one hundred (100) feet shall surround all designated wetland areas.

i. **Spraying.** No aerial application of any pesticides, fungicides, fertilizers or any other chemical shall be allowed. In the event that overspraying of pesticides, fungicides, fertilizers, herbicides or any other chemical is experienced, the petitioner shall provide an increased buffer to insure that no further overspraying will occur, or will cease to operate.

j. **Notification.** Notification of the existence of the agricultural operation shall be submitted to the South Florida Water Management District.

69. Park, passive means a public or private outdoor recreational use relying on a natural or man-made resource base and developed with a low intensity of impact on the land. Typical uses include trail systems, wildlife management and demonstration areas for historical, cultural, scientific, educational or other purposes that relates to the natural qualities of the area, and support facilities for such activities. A passive park use shall be subject to the following supplementary use standards:

a. **Lot size**. In the PC district, a passive park use shall be located on a lot of twenty (20) acres or more.

b. **Use limitations**. In the PC district, a passive park use shall be limited to nature and foot trails; canoe trails; wildlife management performed by official game, fish and wildlife commissions; public hunting and fishing camps; the use of boats, airboats and wheeled and tracked vehicles under policies and regulations prescribed by the appropriate government agencies; hunting and fishing camps on private

property under policies prescribed by official game, fish and wildlife commissions; exploration, observation and archeological studies supervised by recognized authorities or persons granted permission to proceed by the State of Florida; publicly operated passive parks and recreation areas; and residences for preservation management officers.

c. **Accessory use.** Accessory water craft rental and use in a passive park shall be regulated by the Department of Parks and Recreation.

70. **Park, public** means a publicly-owned or operated park or beach providing opportunities for active or passive recreational activities to the general public. A public park use shall be subject to the following supplementary use standards:

a. **AR district.** In the AR district, a public park use shall be limited to athletic fields, swimming pools and tennis courts.

b. **CRS district.** In the CRS district, a public park use shall not include golf courses and there shall be no outdoor lighting for nighttime activities.

71. **Parking garage or lot, commercial** means a building or other structure that provides temporary parking or storage for motor vehicles, where some or all of the parking spaces are not accessory to another principal use. A commercial parking garage or lot use shall be subject to the following supplementary use standards:

a. **CRE district.** In the CRE district, commercial parking use shall not be located in an RR10 land use designation of the Comprehensive Plan.

b. **Principal use.** A commercial parking garage or lot use shall be the principal use. Parking spaces may be rented for parking. No other business of any kind shall be conducted on the lot, including repair, service, washing, display or storage of vehicles or other goods.

c. **Proximity to residential district.** A commercial parking garage or lot shall not be contiguous to lands in the residential districts.

d. **Dead storage of vehicles.** Dead storage of vehicles shall be permitted in the IL district only, subject to Sec. 6.5.J.9 (Additional IL and IG district regulations).

72. **Personal services** mean an establishment engaged in the provision of frequently or recurrently needed services of a personal nature, or the provision of informational, instructional, personal improvement or similar services, which may involve the limited accessory sale of retail products. Typical uses include art and music schools, beauty and barber shops, driving schools, licensed therapeutic massage studios, photography studios and tanning salons. A personal services use shall be subject to the following supplementary use standards:

a. **CN district.** In the CN district, a personal services use shall not exceed one thousand five hundred (1,500) square feet of gross floor area.

b. **CLO district.** In the CLO district, personal service uses shall not occupy more than one thousand five hundred (1,500) square feet of gross floor area for each lot.

73. **Potting soil manufacturing** means an establishment engaged in producing potting soil, including the use of incineration. A potting soil manufacturing facility is usually a combination of other types of facilities listed in this section. If a potting soil facility includes chipping or grinding, adherence to chipping and mulching standards in this section is required. If a potting soil facility includes composting, adherence to composting standards in this section is required. If a potting soil facility includes incineration, adherence to air curtain incinerator standards in this section is required.

a. **Setback from residential districts and uses.** Outdoor material storage piles shall be set back a minimum of twenty-five (25) feet from any property line or fifty (50) feet from any property line abutting a residential district or use.

b. **Health and Environmental Regulations.** A potting soil facility shall be subject to all applicable regulations of the FDER (including Chapter 17-701, F.A.C), the PBCPHU, and the Solid Waste Authority.

c. **Odor and dust reduction.** A potting soil facility use shall be designed and operated to restrict objectionable odor and dust from entering adjacent properties.

d. **Access.** An access road for collection vehicles shall be provided to the entrance of the facility. Acceptable access does not include local streets. Access shall be restricted to specific entrances with gates that can be locked and that carry official notice that only authorized persons are allowed on the site.

e. **Storage.** On-site storage of unprocessed material shall be limited to forty-five (45) days and pile height of storage material shall be limited to fifteen (15) feet. Storage areas shall be effectively screened from view. Such screening shall be designed to ensure that storage areas cannot be seen from rights-of-way or adjacent residential districts.

f. **Landscaping and buffering.** The operation is subject to the compatibility requirements of Sec. 7.3.E.3.b (Compatibility landscape buffer strips). However, an Alternative Landscape Strip Number 3 shall be required along property lines adjacent to a residential zoning district or use. The standards shall be waived if the required landscape buffer is not visible from adjacent lots or rights-of-way.

g. **Supplemental application requirements.** The applicant shall provide the following information:

(1) **Site plan.** A site plan illustrating how the operation functions including circulation routes and their locations, square footage, height and location of buildings, chipper and storage piles; and
(2) **Hours of operation.** A statement specifying the hours of operation;
(3) **Waste.** An explanation of the quantity of waste to be received expressed in cubic yards per day or tons per day; and
(4) **Letter of approval.** A notarized letter of approval shall be provided from the property owner verifying consent to use the property for potting soil manufacturing.

74. Recycling collection station means a mobile container designed and used for deposit of recyclable materials and typically monitored by a person.A recycling collection station use shall comply with the following supplementary use standards:

a. **Approval**. Applicant shall obtain a special permit from the Zoning Division.

b. **Screening**. No storage areas shall be visible from rights-of-way, residential uses or residential districts.

c. **Containers**. Recyclable materials shall be contained within a leak-proof bin or trailer. There shall be no outdoor storage of materials.

d. **Processing**. Only limited sorting, separation or other processing of deposited materials shall be allowed on the site.

e. **Type of materials**. There shall be no collection or storage of hazardous or biodegradable wastes on the site. There shall be no chipping, mulching or receiving of construction debris.

75. Recycling drop-off bin means a totally enclosed structure, containing no more than five hundred (500) square feet of gross floor area, within which pre-sorted, non-biodegradable recyclable materials are collected for redistribution or sale for the purpose of reuse. A recycling drop-off bin use shall be subject to the following supplementary use standards:

a. **Approval**. Applicant shall obtain a special permit from the Zoning Division.

b. **Mobility**. The mobility of the drop-off bin shall be retained.

c. **Location and size**. The drop-off bin shall be located in or adjacent to an off-street parking area, and shall not occupy more than five (5) percent of the total on-site parking spaces or shall be limited by the special use permit.

d. **Maintenance**. The bin and adjacent area shall be maintained in good appearance and free from trash, subject to revocation of the special use permit by the Zoning Director.

e. **Type of materials**. There shall be no collection or storage of hazardous or biodegradable wastes on the site.

76. Recycling plant means a permanent facility designed and used for receiving, separating, storing, converting, baling or processing of non-hazardous recyclable materials that are not intended for disposal. The use may include construction debris recycling or other intensive recycling processes such as chipping and mulching. A recycling plant use shall comply with the following supplementary use standards:

a. **Compatibility, screening, buffering**. The proposed recycling plant shall be properly located and buffered to ensure compatibility with surrounding uses. To ensure use compatibility with surrounding uses, adequate setbacks, and screening and buffering around the perimeter of the proposed recycling plant shall be required at the time the facility is constructed. The standards shall be waived if any of

the required landscape buffer is not visible from adjacent lots or rights-of-way. Required minimum lot size, setbacks, screening and buffering shall include, but not be limited to the following:

(1) **Minimum lot size.** The minimum lot size for recycling plants in industrial districts shall be five (5) acres. The minimum lot size for such facilities in other districts shall be ten (10) acres, provided that underlying district lot sizes shall apply to recycling plants that operate completely in enclosed buildings that are located in the CC, CG, IG, and IL districts.

(2) **Setbacks.** Except for a freestanding office, no part of a recycling plant and its accessory ramps, on site circulation system or storage areas, shall be located within fifty (50) feet of any property line. However, if the facility is in an industrial district and is contiguous to land in an industrial district or designated for an industrial use on the Future Land Use Atlas in the Comprehensive Plan, the setback shall be twenty-five (25) feet of that contiguous property line. No part of a recycling plant, its accessory ramps, on site circulation system or storage areas shall be sited within one hundred fifty (150) feet of a school, park, church, library or residential lot. In no case shall the setback be less than the requirement of the district. No additional setback beyond district setbacks shall apply to recycling plants that operate completely in enclosed buildings and are located in the CC, CG, IG, and IL districts.

(3) **Screening and fencing.** All storage areas shall be effectively screened from view by on-site walls, fences or buildings. Such screening shall be designed and installed to ensure that no part of a storage area can be seen from rights-of-way or adjacent lots. In no case shall the height of recyclable or recovered materials, or non-recyclable residue stored in outdoor areas exceed twenty (20) feet or the height of the principal building on the lot, whichever is greater. For an outdoor recycling plant contiguous to property in a residential district, an opaque fence/wall a minimum of eight (8) feet in height shall be placed along the inside border of the required landscape strip. The purpose of the fence/wall inside the landscape strip is to protect the landscape strip from the intensive activity of the recycling facility and to supplement the landscape strip as a buffer.

(4) **Perimeter landscape buffer strips.** Buffer strips must be installed using Alternative Landscape Strip Number 3, pursuant to Sec. 7.3.E.3.b (Compatibility landscape buffer strips) for facilities in industrial districts contiguous to land zoned for industrial use and for completely enclosed recycling plants in the CC, CG, IL, and IG Districts. For all other facilities, an Alternative Landscape Strip Number 4 shall be installed, provided that when the property line is contiguous to residential districts, the landscape buffer strip shall be fifty (50) feet in width.

b. **Access.** An access road that can be negotiated by loaded collection vehicles shall be provided to the entrance of the recycling plant. Access shall not be provided on a residential street. Access shall be restricted to specific entrances with gates which can be locked at all times and which carry official notice that only authorized persons are allowed on the site.

c. **Drainage.** Untreated surface water runoff shall not be permitted to discharge directly into lakes, streams, drainage canals or navigable waterways other than into or through approved on-site containment areas.

d. **Storage areas.** All outdoor storage of recyclable materials shall be in leak-proof containers or located on a paved area that is designed to capture all potential run-off associated with the stored material. Run-off shall be handled in a manner that is in conformance with local, state and Federal regulations.

e. **Chipping and mulching.** If a recycling plant facility includes chipping or grinding, adherence to chipping and mulching standards in Sec. 6.4.D is required.

f. **Performance standards.** The operation of a recycling plant shall conform to all other requirements of this Code.

g. **Consistent with Comprehensive Plan.** The proposed recycling plant shall be consistent with the goals, objectives and policies of the Comprehensive Plan and this section.

h. **Supplemental application requirements.** In addition to the standard requirements of this Code,applications for recycling plants shall include the following:

(1) **Access.** Graphic illustration and narrative analysis of year round access routes to the site.
(2) **Type of facility.** An explanation of the type of facility requested. It shall specify the type of materials to be handled and include a description of the proposed method of operation, including special waste handling procedures and limitations.
(3) **Quantity of waste.** An estimate of the quantity of waste to be received, expressed in cubic yards per day or tons per day.
(4) **Hours of operation.** A statement specifying the hours of operation.
(5) **Dust control.** A plan to address dust control in traffic, storage and processing areas and contingency during high winds. Dust control measures may include: additional setbacks, full or partial enclosure of chipper or grinder, screening/fencing, vacuuming or watering traffic areas and watering or enclosing storage piles.
(6) **SWA permit.** Verification that the applicant has obtained a permit from and posted a bond with the Solid Waste Authority (SWA) before Site Plan approval. This SWA permit shall be approved consistent with the procedures for obtaining an amendment to the Official Zoning Map.
(7) **Fire protection.** A recycling plant shall be located within ten (10) miles of a full-service fire station or have and maintain on-site fire fighting equipment acceptable to the Palm Beach County Fire Marshall.
(8) **Solid waste district.** A recycling plant may also be located in the Solid Waste Planned District.

77. Repair and maintenance, general means an establishment engaged in the repair and maintenance of motor vehicles or other heavy equipment or machinery, including automobiles, boats, golf carts, mopeds, motorcycles and trucks, excluding paint and body work. Typical uses include automobile repair garages, automobile tune-up stations, automotive glass shops, quick-lubes and muffler shops. A general repair and maintenance use shall comply with the following supplementary use standards:

a. **Enclosed repair activities.** Except in industrial districts, all repair and maintenance activities shall be conducted within an enclosed structure, and there shall be no outside storage of disassembled vehicles, or parts thereof.

b. **Setbacks.** No repair or maintenance activity shall be conducted within one hundred (100) feet of any property line adjacent to a residential district.

c. **Service bay orientation.** No service bay door shall be oriented toward any adjacent residential district or any adjacent public street.

d. **No loudspeakers**. No outdoor speaker or public address system that is audible off-site shall be permitted.

e. **No vehicle testing on residential streets**. Vehicles shall not be tested off-site on residential streets.

f. **Water recycling**. Any accessory automatic car wash facility shall utilize a water recycling system.

78. Repair services, limited means an establishment engaged in the repair of personal apparel and household appliances, furniture, and similar items, excluding repair of motor vehicles. Typical uses include apparel repair and alterations, small appliance repair, small motor repair(including golf carts, mopeds and lawn mowers), bicycle repair, clock and watch repair, and shoe repair shops. A limited repair services use shall comply with the following supplementary use standards:

a. **CN and CHO districts**. In the CN and CHO districts, a limited repair services use shall not occupy more than one thousand five hundred (1,500) square feet of gross floor area.

b. **CLO district**. In the CLO district, a limited repair services use shall not occupy more than five hundred (500) square feet of gross floor area.

c. **CC district**. In the CC district, a limited repair services use shall not occupy more than fifteen thousand (15,000) square feet of gross floor area.

d. **Enclosed repair activities**. All repair activities shall be conducted within an enclosed structure in all districts except IL and IG.

e. **IL and IG districts**. In the IL and IG districts, outdoor storage or outdoor repair activities shall be completely screened from view with a combination of fencing and vegetation to a height of six (6) feet.

79. Restaurant, fast food means an establishment where the principal business is the sale of food and non-alcoholic beverages to the customer in a ready-to-consume state and where the design or principal method of operation is that of a fast-food or drive-in restaurant offering quick food service, where orders are generally not taken at the customer's table, where food is generally served in disposable wrapping or containers, and where food and beverages may be served directly to the customer in a motor vehicle. A fast food restaurant use shall comply with the following supplementary use standards in the CC district.

a. **Location**. The use shall be subject to compliance with the Major Intersection Criteria of Art. 7 (Major intersection criteria).

b. **Outdoor dining areas**. Outdoor dining areas shall comply with district setback requirements for structures.

80. Restaurant, general means an establishment excluding drive-thrus, where the principal business is the sale of food and beverages in a ready-to-consume state and where the design or principal method of operation consists of one or more of the following:

(1) **Sit-down.** A sit-down restaurant where customers, normally provided with an individual menu, are generally served food and beverages in non-disposable containers by a restaurant employee at the same table or counter at which said items are consumed; or

(2) **Cafeteria.** A cafeteria or cafeteria-type operation where foods and beverages generally are served in non-disposable containers and consumed within the restaurant; or

(3) **Shopping center.** A restaurant, which may have characteristics of a fast food restaurant, having floor area exclusively within a shopping or office center, sharing common parking facilities with other businesses within the center, and having access to a common interior pedestrian access way.

(4) **Alcohol.** This use may include the on-premise sale, service and consumption of alcoholic beverages as an accessory and secondary use. A general restaurant use shall comply with the following supplementary use standards:

a. **CN district.** In the CN district, a general restaurant use shall not occupy more than one thousand five hundred (1,500) square feet of gross floor area. In addition, no such use shall provide other than take-out service unless the use is approved as a Class "A" Conditional use.

b. **CLO district.** In the CLO district, a general restaurant use shall not occupy more than one thousand five hundred (1,500) square feet of gross floor area per establishment.

c. **CHO district.** In the CHO district, a general restaurant use shall be contained within an office, hotel or motel structure and shall be limited to a total floor area no greater than thirty (30) percent of the gross floor area of the structure, exclusive of vehicular parking and service areas.

d. **CRE district.** In the CRE district, a general restaurant use shall be permitted only as an accessory use to another permitted principal use.

e. **IL and IG districts.** In the IL and IG districts, a general restaurant use shall be permitted only as an accessory use to a permitted principal industrial use.

f. **Outdoor dining areas.** Outdoor dining areas shall comply with district setback requirements for structures, and shall be subject to Site Plan review pursuant to Sec. 5.6.

81. Restaurant, specialty means an establishment, excluding drive-thrus, engaged in the retail sale of a limited variety of baked goods, candy, coffee, ice cream or other specialty food items, which may or may not be prepared for on-premises sale and which may be consumed on the site. A specialty restaurant use shall comply with the following supplementary use standards:

a. **CN and CHO districts.** In the CN and CHO districts, a specialty restaurant use shall be limited to a maximum of one thousand five hundred (1,500) square feet of gross floor area.

b. **CLO district.** In the CLO district, a specialty restaurant use shall be limited to a maximum of eight hundred (800) square feet of gross floor area.

c. **CC district.** In the CC district, a specialty restaurant shall not exceed fifteen thousand (15,000) square feet unless approved as a Class "B" Conditional use.

d. **Outdoor dining areas**. Outdoor dining areas shall comply with district setback requirements for structures, and shall be subject to Site Plan review pursuant to Sec. 5.6.

e. **Catering service**. Except in the IL district, the use of more than three (3) delivery or service vehicles shall be approved by the Development Review Committee.

f. **PUD Recreational use zone.** A specialty restaurant is permitted for members and their guests.

82. Retail sales, general means an establishment providing general retail sales or rental of goods, but excluding those uses specifically classified in another use type. Uses include typical retail stores such as but not limited to clothing stores, auto parts stores, bookstores, business machine sales, food stores (excluding convenience stores), and marine supply sales (excluding boat sales). Uses shall also include the sale of bulky goods such as household goods, lawn mowers, mopeds, motorcycles and golf carts. Retail establishments may rent and perform incidental repair to their products. For impact fee purposes, general retail will also include services such as entertainment, eating and drinking establishments, and personal services. A general retail sales use shall comply with the following supplementary use standards:

a. **CN district**. In the CN district, a general retail sales use shall be limited to a maximum of one thousand five hundred (1,500) square feet of gross floor area per use.

83. Retail sales, mobile, temporary or transient means retail sales operations without a fixed or permanent location. Typical uses include sales of flowers or food products; temporary seasonal sales, such as Christmas trees or sparklers as defined in F.S. chapter 791; and special event sales which require a tent or temporary structure. In no case shall fireworks be offered for sale, exposed for sale, located or sold under a permit issued in accordance with this section. In accordance with Sec. 791.04, Fla. Stat., the sale of fireworks to the general public is prohibited.

A mobile, temporary, or transient retail sales or service use shall comply with the following supplementary standards. These standards may be enforced by the Code Enforcement Citation System and shall be considered a Class IV violation for purposes of fine levied. If the vendor is found in violation of any provision of the terms of the permit or of this Code, the Zoning Director shall have all remedies provided by Code or Statute and shall withhold future special permits for a period of eighteen (18) months. A copy of the approved special permit shall be kept on site during the entire duration of the temporary use.

a. **Temporary sales.** A temporary seasonal retail sales use, such as Christmas tree or sparklers, or special event sales, such as the sale of furniture, plants, or toy sales, that may or may not require a tent or temporary structure, excluding trailers, shall:

(1) **Approval.** Obtain a special permit from the Zoning Division.
(2) **Location.** Be located in a CG or SA district, except that the temporary sale of Christmas trees shall be permitted in the AR district if it is accessory to a nursery, limited to no more than thirty (30) days, and not located within required yard setbacks;
(3) **Permission.** Have written permission from the property owner;
(4) **Setbacks.** The use shall comply with the setbacks of the district. At a minimum, the use shall be setback from all rights-of-way a minimum of thirty (30) feet.

(5) **Duration.** Not exceed fifteen (30) days in duration, provided that an additional fifteen(15) days duration may be approved, subject to the Zoning Director's discretion. Issuance of permits shall be limited to four (4) times a year per site.

(6) **Parking.** Meet the off-street parking requirements of Sec. 7.2 (Off-street Parking Regulations);

(7) **Safe distance triangle.** Not be located within safe distance triangles, as defined in Sec. 7.3.H.8 (Safe distance triangles);

(8) **Tent.** Not have more than one (1) tent or structure for each lot;

(9) **Lighting.** Comply with Sec. 6.6.I (Outdoor lighting standards); and

(10) **Signage.** Meet the following requirements for signage:

(a) **Size.** For a temporary sale, one (1) on-site, non-illuminated freestanding sign shall be permitted. This sign shall not exceed twenty (20) square feet in sign area, shall not exceed six (6) feet in height from finished grade and shall be located at least five (5) feet from all base building lines.

(b) **Site plan.** The proposed sign, including the location, size and elevation, shall be shown on the site plan for the special use.

(c) **Duration.** The sign may remain on the site only for the approved duration of the temporary sale.

(d) **Type.** No other type of sign, including balloons, banners, or emblems shall be permitted.

(11) **Debris.** All debris shall be removed within forty-eight (48) hours of expiration of permit and the property will be returned to an orderly and sanitary condition.

(12) **Insurance.** Submit proof of liability insurance paid in full covering the period for which the permit is issued, in the minimum amount of five hundred thousand dollars ($500,000) per occurrence.

(13) **SA district.** In the SA district temporary sales shall be limited to plants, pumpkins and Christmas trees, and shall exclude sparkler sales.

(14) **Special Provisions for the sale of Sparklers.** In addition to the requirements set forth above, sales of sparklers shall comply with the following requirements:

(a) **Seasonal limitations.** Seasonal sales shall be limited to June 20 through July 5 and December 10 through January 2 of any given year.

(b) **Location.** The sale of sparklers shall be limited to the Commercial General and Light Industrial zoning districts.

(c) **Hours of operation.** Hours of operation shall be limited from 7 a.m. to 11 p.m.

(d) **Electrical service.** Temporary electrical service to a site shall be provided by an approved temporary connection. If a generator is used on site, it shall meet the supplemental requirements established by the Palm Beach County Chief Electrical Inspector and Palm Beach County Fire-Rescue Department.

(e) **Storage trailers.** Temporary storage trailers may be permitted in conjunction with the temporary sales. Trailers shall be parked a minimum of 75 feet from primary circulation routes and shall be parked the maximum extent possible from all buildings on or surrounding the site.

(f) **Supplemental application requirements.** An application for each location shall be submitted. Each permit application shall be supplemented with the following documentation:

i) **Certification.** A certification of registration from the State Fire Marshal authorizing sale of sparklers.

ii) **Affidavit.** A signed and notarized affidavit of Approved List of Sparklers.

iii) **Site plan.** A site plan approved by the Department of Fire-Rescue and Palm Beach County Sheriff's Office.

iv) **Removal agreement.** A signed and notarized Removal Agreement.

b. **Mobile sales**. Mobile retail sales of food shall be conducted from a portable stand and shall:

(1) **District.** Be located in the CC-Community Commercial, CG-General Commercial or IL-Light Industrial Zoning District;
(2) **Permission.** Obtain written permission of the property owner;
(3) **Special permit.** Obtain a special permit from the Zoning division;
(4) **Location.** Not be located in any required parking spaces;
(5) **Landscape.** Not be located in any landscape buffer;
(6) **Residentially zoned property.** Not be located immediately adjacent to any residentially zoned area, excluding properties zoned AR;
(7) **Distraction to motor vehicles.** Not be located in such a manner as to distract motor vehicle operators or promote, require or cause any vehicles to stop, stand or to park in violation of official traffic-control devices, including, but not limited to signs, signals, and markings erected by authority of the County or State for the purpose of regulating, moving or guiding traffic;
(8) **Insurance.** Submit to the Zoning division of Planning, Zoning and Building, if located on private property, a certified copy of liability insurance paid in full, covering the period for which the permit is issued, in the minimum amount of two hundred thousand dollars ($200,000.00) per occurrence.
(9) **Circulation.** Not be located in any driveway aisles or loading areas or interfere with on-site circulation;
(10) **Safe distance triangle.** Not be located within safe distance triangles, as defined in Palm Beach County Code, Article 7, Landscape Code;
(11) **Number.** Be the only outdoor vendor on the lot; and
(12) **Mobility.** Be removed from the site at night.
(13) **Signage.** Signage for vendors shall be limited to one sign, with a maximum sign face area of ten (10) square feet. The sign shall be no closer to any property line than the vendor. Banners, pennants, balloons or flags shall be prohibited.

c. **Transient sales**. Transient sales vehicles that travel to several locations in one (1) day, such as lunch wagons, or ice cream trucks are:

(1) **Travel.** Permitted to travel to any business or residence; and
(2) **Parking.** Not permitted to park in any one location for more than two (2) hours.

d. **Mobile medical or professional units.** Mobile medical facilities or other self contained facilities, that travel to several locations, are at the location for a period greater than twenty-four (24) hours, and provide medical or other professional services shall be required:

(1) **Special permit.** Receive a special permit that is renewed annually.
(2) **Site plan.** Provide a site plan for all locations indicating where the unit shall be placed on the site; and,
(3) **Visitation.** Specify length of time and frequency of visits to the various locations. The unit shall be on each site no longer than thirty (30) days from the date permit is issued. Units shall visit the site no more than six (6) times a year.

84. Sanitary landfill or incinerator means a permitted disposal facility employing an engineered method of disposing of solid waste on land in a manner which minimizes environmental hazards by spreading the solid wastes in thin layers, providing a sand fill or approved substitute cover. A sanitary landfill

or incinerator shall only be located in the SWPD, Solid Waste Disposal Planned Development District, except when an incinerator is an accessory use to a hospital.

85. School, elementary or secondary means a premises or site upon which there is an institution of learning, whether public or private, which conducts regular classes and courses of study required for accreditation as an elementary or secondary school by the State Department of Education of Florida. An elementary or secondary school use shall comply with the following supplementary use standards:

a. **Private School.**

(1) **Bike paths/pedestrian access.** Prior to approval of a building permit, a pedestrian access/bike path and cross-walk plan shall be submitted by the applicant showing access to the school site from surrounding neighborhoods. This system shall be integrated with existing or proposed pedestrian/bike path systems in the area, and shall be subject to the approval by the County Engineer.

(2) **Parking.** Prior to approval of a building permit, the Site Plan shall indicate the maximum student enrollment, employee count and require/provided parking spaces to demonstrate conformance with minimum parking requirements for schools, as specified in Sec. 7.2 (Off-street Parking and Loading).

(3) **Vehicular circulation.** A vehicular circulation system shall be designed that provides an independent traffic flow for school employees, visitors, and deliveries from the bus loading area and parent drop-off area.

(4) **Dumpsters.** Dumpster and trash receptacles shall be located a minimum of one hundred (100) feet from residential property and screened from view with a six (6) foot solid wood fence and hedge combination.

(5) **Utility plant.** A six (6) foot security fence shall be provided around the perimeter of the proposed utility plant, to discourage access by unauthorized personnel.

(6) **Signalization.** Signalization shall be installed, if warranted, as determined by the County Engineer, at the development's entrance road. Should signalization not be warranted after twelve (12) months of the final certificate of occupancy, the property owner shall be relieved of this obligation.

(7) **Site development impacts.** Reasonable precautions shall be employed during site development to insure that unconfined particulates (dust particles) and pollutants from the property do not negatively impact neighboring properties or surface or subsurface water systems.

(8) **Fencing.** A six (6) foot high security fence shall be installed around the entire perimeter of the outside activity area to facilitate limited access.

(9) **Outside activity areas.** Outside activity areas shall be located away from adjacent residential areas, whenever possible. Outside activity areas located adjacent to developed residential properties because of site design constraints shall provide a fifty (50) foot buffer. This landscape buffer shall be supplemented with a six (6) foot high hedge or hedge/berm combination and a double row of native canopy trees, spaced an equivalent of one (1) tree per twenty (20) linear feet of landscape buffer.

(10) **Perimeter buffer.** The petitioner shall provide a twenty-five (25) foot landscape buffer around the perimeter of the site. Native vegetation shall be preserved and/or relocated into the buffer from development areas on the site. The buffer shall consist of a six (6) foot high hedge or hedge/berm combination and be supplemented with minimum twelve (12) foot native canopy trees, spaced an equivalent of one (1) tree per twenty (20) linear feet of landscape buffer, as required to supplement the relocation program.

(11) **Wetlands/preservation.**

(a) **Preservation.** The wetland areas on site shall be preserved. Boardwalks and education learning stations may be constructed within the wetland areas, but shall be subject to approval by the Zoning Director, the SFWMD, and ERM.

(b) **Map.** A clearly labelled predevelopment map shall be submitted indicating the location and acreage of wetlands and preserve areas. This map shall consist of a controlled vertical aerial survey and ground level photographs of existing site conditions.

(c) **Vegetation.** Existing native vegetation shall be maintained in designated preserve areas. The areas shall receive protection from damage and disturbance during site development, in accordance with Sec. 7.5 (Vegetation Protection).

(d) **Permit application.** Prior to site plan review, a complete wetlands permit application and a plan shall be submitted indicating wetlands and significant upland communities that will require mitigation for site development, and the applicant shall meet with the Zoning Director and ERM representatives to develop a mitigation program.

(e) **Preservation of areas.** Existing native vegetation shall be preserved to the maximum extent possible throughout the site. Preservation areas shall be established between parking areas and property lines and roadways, and in the area between recreational areas, education buildings and property lines, especially those abutting residential land. The areas within the drop-off drive shall also be designated as preserve areas. Vegetation in these preserve areas shall remain undisturbed during construction, pursuant to Sec. 7.5 (Vegetation Protection).

(f) **Development permit.** At the time of submission of an application for development permit for Site Plan/Final Subdivision Plan, a complete vegetation inventory shall be submitted with written assessment and evaluation. All native vegetation within open space areas and the perimeters of the site shall be preserved and incorporated into the project design.

(g) **Vegetation relocation.** A vegetation relocation program shall be submitted to the Zoning Director, indicating an inventory of transplantable vegetation. The inventory shall consist of canopy and understory native vegetation that will be relocated to the perimeter buffers, landscape strips and open space areas.

(h) **Removal permit.** A vegetation removal permit application with the required information shall be submitted to the Zoning Director simultaneously with the application for development permit for Site Plan/Final Subdivision Plan.

(i) **Preclearing inspection.** A preclearing inspection shall be scheduled with the Zoning Division, ERM, and SFWMD to finalize the preservation plan.

(j) **Species monitoring.** Prior to site plan review, a listed species (plant and animal) inventory shall be conducted. Where listed species exist, they shall be located, tagged, and relocated to a protected area to the greatest extent possible. The relocation plan shall receive approval from ERM and the State of Florida Fresh Water and Game Commission.

(k) **Existing vegetation.** Existing vegetation, including wetland specimens, shall be relocated to new wetland, upland, and hammock areas, whenever possible.

(l) **Construction documents.** Prior to site plan review, construction documents shall be submitted to ERM relating to wetland restoration, landscaping, and vegetation restoration for their review and approval.

b. Public School.

(1) Applicability.

(a) **Public school sites.** This section is intended to apply only to public school sites. Other types of Board development, such as administrative offices, warehouse buildings, etc., shall comply with the regulations of the applicable zoning district.

(b) **Previous approvals and future amendments.** Public school sites approved prior to June 16, 1992 shall not be considered non-conforming uses. These sites shall be subject to the requirements of this section and Article 5, (Development Review Procedures and Standards), Sec. 5.6, (Site Plan) for future amendments in lot area or site design.

(c) **Approval Process.**

i) **Development Review Committee applications.** The Board may obtain land use approval for a new public school facility or an alteration to an existing school facility through the Development Review Committee by the procedure outlined below:

a) **Conditions.** Meet the intent of conditions and standards as outlined by an Intergovernmental Agreement when entered into between the School Board and the County;

b) **Sign-offs.** Receive sign-offs from applicable County agencies prior to site acquisition, as specified in the Intergovernmental Agreement and listed on the School Site Acquisition Review Form; and

c) **DRC.** Submit a Development Review Committee application package which meets the standards of this ordinance and Article 5 (Development Review Procedures).

ii) **Conditional use approvals.** Public school site applications which do not comply or are unable to comply with the requirements of this section, are subject to Article 5 (Development Review Procedures and Standards), Sec. 5.4, (Conditional Uses) of the Unified Land Development Code.

(2) **Application procedure.** Development Review Committee applications for public school approvals shall submit:

(a) **Concurrency.** A copy of the Concurrency Application which was submitted to the Planning Division;

(b) **DRC application.** A completed Development Review Committee application;

(c) **School site acquisition.** A completed School Site Acquisition Review Form including signatures from all applicable County agencies and drainage districts;

(d) **Application materials.** Other application materials as required by this section or other sections of this Code (a site plan, a vegetation removal application, etc).

(e) **DRC.** All items shall be submitted at a regularly scheduled DRC meeting and comment by agencies shall be provided to School District at next schedule Development Review Committee.

Standards. Applications submitted pursuant to this section shall be reviewed by the Development Review Committee and approved after a finding by the committee that the procedures and standards of this ordinance and Article 5, (Development Review Procedures and Standards), Sec. 5.6, (Site Plan) are met.

(3) **Accessory uses.** The following uses, subject to the special regulations, shall be allowed as customarily incidental and subordinate to school sites:

(a) **Uses and special regulations.**

i) **Receiving towers.**

a) **Height.** Towers shall have a maximum height of seventy (70) feet or less measured at grade level. Towers requiring a height greater than seventy (70) feet shall comply with the requirements of the Unified Land Development Code, Article 6 Zone Districts), Sec. 6.7 (Supplementary Regulations).

b) **Setbacks.** Towers shall meet the following minimum setbacks:

(i) **Height.** Twenty (20%) percent of the tower height;

(ii) **R-O-W setback.** Fifty (50) feet from a County road right-of-way;

(iii) **Residential setback.** Fifty (50) feet from residentially zoned property; and,

(iv) **Agricultural setback.** One hundred (100) feet from agriculturally zoned property.

c) **Supports/anchors.** All tower supports and peripheral anchors shall be located entirely within the boundaries of the property and in no case less than twenty feet from a property line;

d) **Fencing.** Security fencing or a security wall shall be installed around the base of each tower, each anchor base and each tower accessory building to limit access; and

e) **Sign-off.** The Board shall provide a written sign-off from the County Department of Airports stating the tower would not encroach into any public or private airport approach space as established by the Federal Aviation Administration.

f) **Removal.** Obsolete or abandoned towers shall be removed within twelve months of cessation of use.

ii) **Water or waste water treatment facility.**

a) **Consistency.** The facility shall be consistent with the goals, objectives and policies of the Palm Beach County Comprehensive Plan;

b) **Location/buffering.** The facility shall be located and buffered to ensure compatibility with adjacent land uses;

c) **Duration.** The use of the facility shall only be permitted until such time as central waste water service is available from the appropriate utility; and

d) **Standards.** The facility shall be designed and installed in accordance with all relevant federal, state and local utility standards.

iii) **Accessory buildings and improved outdoor recreation areas.**

a) **Setbacks.** All buildings and structures (stadiums, playing fields, tennis courts, bleachers, etc.) shall meet the required setbacks for the school site; and

b) Comply with the property development regulations as stated below.

(4) Property development regulations and supplemental design standards.

The following property development regulations shall apply to public school sites approved as a permitted use by the Development Review Committee or approved as a conditional use by the Board of County Commissioners. If conflicts exist between this section and regulations found elsewhere in the Unified Development Code, the regulations of this section shall apply.

(a) Property development regulations.

i) Current Board site design standards:

School Type	Min. Lot Dimensions			Min. Building Setbacks				Max. Bldg. Height
	Size	Width	Depth	Front	Side	Cnr	Rear	
Elementary	15 ac	300	300	25	50	25	50	35
Middle	25 ac	600	600	25	50	25	50	35
High	60 ac	600	600	25	50	25	50	35

Notes:

1 Minimum lot dimensions shall be governed by the regulations above or the most recent standards adopted by the district and shall apply only to new schools. The District shall forward any changes in the standards to the Department within twenty (20) days of School Board adoption. Minimum lot dimensions shall include, if applicable, sufficient room for any on site retention.

2 Maximum Building Height: Structures higher than thirty-five (35) feet are allowed provided the following setbacks are met:

a. The minimum yard setbacks of this section; and

b. An additional one (1) foot setback for each one (1) foot in height exceeding thirty-five (35) feet.

3 Minimum lot frontage equates to minimum lot width.

---

ii) Parking. The site plan shall indicate the student capacity, employee count, guest spaces and the amount of required and provided parking spaces to demonstrate conformance with minimum parking requirements.

Minimum parking space requirements* for schools, as may be amended by the School Board:

	student	employee	guest
Elementary	0	95	20
Middle School	0	95	20
High School	375	275	25

*These minimum parking space counts are intended to represent the standards currently adopted by the School Board for an elementary school - 1,280 student capacity and high school - 2,000 student capacity. Parking requirements for schools with larger student capacities than indicated shall be approved by the Department on a case by case basis. In order to maintain current standards, the Board shall forward any changes to parking space requirements to the Department within twenty (20) days of School Board adoption.

(b) **Supplemental design standards.** The following design standards shall apply to new school sites and any improvements to previously approved school sites.

i) **Zoning Division**

a) **Lighting.** Security and recreational lighting (i.e., outdoor activity area lighting; ball fields, tennis courts, etc.) if within 50 feet of property line shall:

(i) be shielded, and directed away from land with residential zoning or a residential designation on the Land Use Atlas;

(ii) meet the requirements of Article 6, (Zoning Districts), Sec. 6.7 (Supplemental Regulations), Unified Land Development Code.

b) **Bike paths/pedestrian access.** The Board shall indicate a pedestrian access/bike path and cross-walk access to parks. This system shall be integrated with existing or proposed pedestrian/bike path systems in the area.

c) **Dumpster.** Dumpster and trash receptacles shall be located a minimum of seventy five (75) feet from residential property and screened from view.

d) **Dust.** Reasonable precautions shall be employed during site development to insure that unconfined particulates (dust particles) and pollutants from this property do not negatively impact neighboring properties or surface and subsurface water systems.

e) **Perimeter landscape buffers.**

i) **25 foot buffer.** The Board shall provide a minimum twenty-five (25) foot landscape buffer separating water or waste water treatment facilities, vehicular use areas, stadiums, pavilions and outdoor activity areas from residentially zoned properties or properties designated residential on the Comprehensive Plan. The buffer shall provide a minimum six (6) foot high continuous screen consisting of hedges or shrubs, trees, fences or walls, and berms or combination of these materials. Trees planted in the buffer, excluding preserved and relocated trees, shall be native canopy trees a minimum of fifteen (15) feet in height, with a minimum eight (8) foot spread. If a hedge is proposed to provide the entire six (6) foot high screen, the hedge material shall be a minimum of forty-two (42") inches in height, spaced two (2) feet on center at time of planting.

ii) **15 foot buffer.** A perimeter buffer fifteen (15) feet in width shall separate vehicular use areas and outdoor activity areas from adjacent streets. This buffer shall provide native canopy trees a minimum of twelve (12) feet in height with a minimum six (6) feet spread, spaced a minimum of twenty (20) feet on center and a minimum twenty four (24") inch high native hedge, spaced a minimum of two (2') feet on center.

All perimeter landscape buffers shall contain a minimum of one (1) tree/250 square feet of landscape buffer area and use design guidelines and plant materials promoting Xeriscape principles whenever possible.

iii) **Environmental Resources Management**

a) **Wetlands and vegetation protection.**

(i) **Permits.** Prior to Development Review Committee, the Board shall obtain any applicable permits as necessary to conform to the following ordinances as may be amended:

(a) Wetlands Protection Ordinance, Sec. 9.4, ULDC;

(b) Environmentally Sensitive Lands, Sec. 9.2, ULDC;

(c) Wellfield Protection , Sec. 9.3, ULDC, and
(d) Coastal Protection , Sec. 9.1, ULDC.

(ii) **Viable wetland areas.** Viable wetland areas as determined by applicable federal, state and local agencies shall be preserved according to state and local guidelines. Boardwalks and educational learning stations may be constructed within the wetland areas subject to the approval of all agencies having jurisdiction.

(iii) **Native vegetation.** Existing native vegetation shall be preserved to the maximum extent possible, including receiving a vegetation removal permit, pursuant to Article 7, (Site Development Districts), Sec. 7.5, (Vegetation Protection and Preservation) of the Unified Land Development Code.

(iv) **Vegetation removal permit.** Prior to issuance of a Vegetation Removal Permit, if determined to be applicable by the County, the Board shall provide an environmental study of the proposed site, including wetland and upland preserve areas, compliance with the twenty five (25%) set-aside and proposed mitigation plans and maintenance plans for preserve areas, for approval by the County.

(v) **Preclearing.** The Board shall schedule preclearing field meetings with the Zoning Division, the Department of Environmental Resources Management, and other agencies with jurisdictional authority when finalizing a preservation plan involving lands with environmental concerns.

(vi) **Species inventory.** If requested by the County, a Listed Species (plant and animal) inventory shall be conducted. Where protected species exist, they shall be located, incorporated into preserve areas or relocated to a protected area in compliance with all federal, state and local laws. Any relocation plan shall require the approval of all agencies having jurisdiction.

iii) **Engineering Department**

a) **Signalization.** The Board shall install signalization if warranted, as determined by the County Engineer, at the project's entrance road or roads. Should signalization not be warranted within twelve months subsequent to occupancy, the Board shall be relieved from this condition.

b) **Drainage.** The Board shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application.

However, at a minimum, this development shall retain on-site the stormwater runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer.

c) **Right-of-way dedication.** Within six (6) months of Development Review Committee certification, the Board shall convey to the Palm Beach County Board of County Commissioners by road right-of-way warranty deed, portions of the site necessary to achieve an ultimate road right-of-way, as indicated on the County Thoroughfare Map, plus turn lane right of ways (minimum of 150 feet in length, 12 feet in width, with taper lengths of 180 feet) all free of encumbrances and encroachments. Locations of all turn lane right of ways shall be where warranted as determined by the County Engineer. The Board shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and

encroachments. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer.

d) **Road improvements.** The Board shall fund and construct required road improvements as determined by the County Engineer. These improvements shall include, but not be limited to, paving and drainage, turn lanes, traffic circulation, sidewalks and driveway connections. The road improvements shall be completed prior to school occupancy.

e) **Drainage district dedication.** Within six (6) months of Development Review Committee certification, the Board shall convey portions of the site necessary to achieve ultimate canal rights of way as indicated by drainage district maps. The dedications shall be completed by Quit Claim Deed or an Easement Deed subject to the preference of the applicable drainage district.

86. Security or caretaker quarters means a residence, located on a site for occupancy by a caretaker or security guard. A security or caretaker quarter use shall comply with the following supplementary use standards:

a. **Approval.** Applicant shall obtain a special permit from the Zoning Division.

b. **Maximum number of quarters.**

(1) No more than one (1) security or caretaker quarters use shall be developed upon the same lot as a bona fide agricultural, commercial, industrial or institutional use.

(2) In the case of a conditional use, not more than one (1) security or caretaker quarters use shall be permitted within the area governed by the entire site plan.

c. **Limitation on occupancy.** The security or caretaker quarters use shall be for the exclusive use of and shall be occupied only by a guard, custodian, caretaker, owner, manager or employee of the owner of the principal use, and his family. Such person shall be actively engaged in providing security, custodial or managerial services upon the premises.

d. **Not with temporary uses.** Unless otherwise provided in this Code, a security or caretaker quarters use shall not be permitted in association with a temporary use.

e. **Property development regulations.** A security or caretaker quarters use shall not be established upon a substandard lot, nor shall the development of such quarters cause a site to violate this Code.

f. **Construction standards.** Development of a security or caretaker quarters use shall meet the appropriate standards of the Palm Beach Building Code and other applicable laws.

g. **Use of mobile home.** A mobile home may be used for a security or caretaker quarters use only in the AGR, AP, SA, RSER, AR, IL, IG and PO districts. Mobile homes as accessory use to an agricultural use in districts within the Urban Services Area shall be on a minimum of five (5) acres. Agricultural uses outside the Urban Services Area, shall meet the lot size and property development regulations of the district. See Sec. 6.4.D.62.

h. **Discontinuation of use.** A security or caretaker quarters use shall continue only so long as the principal use that it is meant to serve remains active. Upon termination of the principal use, the right

to have the caretaker or security quarters shall end, and the quarters shall immediately be discontinued. Once discontinued, such quarters shall not be reestablished except in conformity with this section.

i. **Accessory use.** A security or caretaker quarters use shall be allowed as an accessory to a public or civic use in all districts.

j. **Renewal of Special Permit.** The special permit shall be renewed annually in accordance with Sec. 5.5.E.9. of this code.

87. Self-service storage. Self-service storage, limited-access means a multi-storied self-service storage facility, with limited access points from the exterior of the building to interior halls that serve individual bays. Self-service storage, multi-access means a one story self-service storage facility with multi-access points from the exterior of the building to individual bays. A self-service storage use may be developed as a one story multiple access facility or as a multi-story limited access facility in accordance with the standards in this subsection.

a. **General.** All self-service storage uses shall comply with the following:

(1) **Uses.** Self-service storage facilities shall be limited to the rental of storage bays and the pickup and deposit of goods or property in dead storage.

(2) **Vehicle Rental.** A Vehicle Rental Facility may be permitted on site subject to review and approval as a Conditional Use A. The accessory use shall be limited to the rental of trucks and trailers used for moving; the installation of hitch and towing packages, and wash facility for rental inventory. The rental facility office shall be located facing a collector street. A maximum of 1000 square feet of the rental office may be devoted to the rental and sale of retail items used for moving and storage including but not limited to: hand trucks, cartons, tape, and packing materials.

(a) **Employee and Customer Parking.** If a Conditional Use A is requested for a vehicle rental facility, then parking shall be calculated in accordance with Sec. 7.2.C of this code.

(b) **Parking of rental trucks.** Parking of rental trucks and trailers approved as an accessory commercial use may be permitted to be parked outside subject to the following criteria:

i) Subsection 6.4.E.87.A.(6).b.i,iii and iv of this subsection.

ii) Sec. 7.2 of this code.

(3) **Use of bays.** Use of storage bays shall be limited to storage of personal goods. Storage bays shall not be used to manufacture, fabricate or process goods; service or repair vehicles, boats, small engines or electrical equipment, or to conduct similar repair activities; conduct garage sales or retail sales of any kind; or conduct any other commercial or industrial activity on the site. Individual storage bays or private postal boxes within a self-service storage facility use shall not be considered premises for the purpose of assigning a legal address in order to obtain an occupational license or other governmental permit or license to do business nor as a legal address for residential purposes. Violation of this subsection shall cause revocation of any license or permit obtained to conduct such activity.

(4) **Minimum lot size.** The minimum lot size for a self-service storage facility shall be two (2) acres. A self-service storage facility use included within a Planned Development District shall have a minimum of two (2) acres devoted exclusively to such use.

(5) **Security quarters permitted.** A security or caretaker quarters use may be established on the site of a self-storage facility pursuant to Sec. 6.4.D.

(6) **Outside storage.** Except as provided in this section, all property stored in the area devoted to a self-service storage facility use shall be entirely within enclosed buildings. Open storage of recreational vehicles and dry storage of pleasure boats of the type customarily maintained by persons for their personal use shall be permitted within a self service storage facility use, provided that the following standards are met.

i) **Location.** The storage shall occur only within a designated area. The designated area shall be clearly delineated.

ii) **Lot area.** The storage area shall not exceed twenty-five (25) percent of the lot area unless approved by the Board of County Commissioners. In no case shall the storage area exceed fifty (50) percent of the lot area.

iii) **Screening.** The storage area shall be entirely screened from view from adjacent residential areas and public roads by a building or by installation of a six (6) foot high wall meeting the requirements of Sec. 7.3.E.3.b (Compatibility landscape buffer strips) for Alternative Landscape Strip Number 3 or Number 4.

iv) **Setbacks.** Storage shall not occur within the area set aside for minimum building setbacks.

v) **Boats.** Pleasure boats stored on the site shall be placed and maintained upon wheeled trailers.

vi) **Dry stacking.** No dry stacking of boats shall be permitted on site.

vii) **Vehicular maintenance.** No vehicle maintenance, washing or repair shall be permitted.

(7) **Landscaping and buffering.**

(a) **Wall option.** A self-service storage facility use may dispense with the wall that is required to be erected within the required perimeter landscape strip for that portion of the perimeter if all of the following standards are met.

i) **Facades.** The exterior facades of storage structures present an unbroken, wall-like appearance when seen from adjacent lots and rights-of-way. This shall not prevent the installation of fire access doors, if mandated by law.

ii) **Wall.** The exterior facades of separate storage structures are joined by walls to give the appearance of structural continuity.

iii) **Buffering.** The resulting area between the outer face of the structures and the property line or right-of-way is maintained and appropriately planted as a landscape buffer.

iv) **Access.** There are no aisleways or other vehicle accessways located in the area between the building and the right-of-way or adjacent lot boundary.

v) **Berm.** Either a landscape berm is installed in the perimeter landscape buffer or the area is maintained for vegetation preservation.

(b) **Supplemental planting.** The following planting standards shall apply, regardless of the buffer and wall option.

i) **Planting.** A minimum of one (1) tree shall be planted for each twenty (20) feet of perimeter landscape strip.

ii) **Aisleways.** The gross area of interior aisleways in a self-service storage facility shall be treated as a specialized vehicular use area, pursuant to Sec. 7.3.E.2.b (Other vehicular use areas used by the public), provided that one (1) additional tree shall be planted for each five hundred (500) square feet of landscape area transferred to the perimeter of the lot.

iii) **Height.** Immediately upon planting, trees shall be a minimum of ten (10) feet in height with a crown spread of five (5) feet.

iv) **Buffering.** If alternative landscape buffer strip number 2 is selected, a hedge shall be installed in the perimeter buffer. The hedge shall be a minimum of twenty-four (24) inches in height upon planting with material planted twenty-four (24) inches on center.

(c) **Dumpsters.** Dumpsters and trash receptacles shall be screened from view of adjacent lots and streets.

(8) **Signage.** Signage shall comply with Sec. 7.14 (Signage) or this subsection, whichever is more restrictive.

(a) **Freestanding signs.** The maximum number of freestanding signs shall be one (1) sign for each lot frontage on which a self-service storage facility use has access to a public street. The sign shall be placed along this frontage. The maximum height of a freestanding sign shall not exceed thirty-five (35) feet in height.

(b) **Wall signs.** The maximum number of flat or wall signs shall be one (1) sign for each building facade facing a public road on which the self-service storage facility has access. No signs shall be placed on the doors or walls of individual storage bays.

(c) **Roof signs.** No roof signs shall be permitted on the site.

(d) **Sign area.** The maximum sign area of on-premises signs shall not exceed one hundred (100) square feet for each sign face.

(9) **Outdoor lighting.** Outdoor lighting shall be the minimum necessary to discourage vandalism and theft. If a facility abuts a residential district, outdoor lighting fixtures shall be no more than fifteen (15) feet in height.

(10) **No loudspeakers.** No exterior loudspeakers or paging equipment shall be permitted on the site.

(11) **Door orientation.** Storage bay doors shall not face any abutting property located in a residential district, nor shall they be visible from any public road.

(12) **Barbed wire.** Barbed or similar wire may be used for security purposes, but it shall not be visible from any adjacent public road or residential district.

(13) **Architecture.** The exterior facades of all structures shall receive uniform architectural treatment, including stucco and painting of surfaces. The colors selected shall be compatible with the character of the neighborhood.

b. **Supplemental standards for multi-access self-storage facilities.** In addition to the general standards above, multi-access self-service storage facilities shall comply with the following regulations:

(1) **Separation between buildings.** Separation between buildings within the facility shall comply with the circulation standards in this subsection or be a minimum of ten (10) feet.

(2) **Maximum bay size.** The maximum size of a storage bay shall be four hundred fifty (450) square feet.

(3) **Height.** With the exception of a structure used as a security or caretaker quarters, the maximum height of a self-service storage facility use shall be one (1) story with the height of the structure not to exceed twenty (20) feet. In addition, a parapet wall shall be constructed to screen roof-mounted air conditioning and any other equipment. The combined height of the building and the parapet wall shall not exceed twenty-five (25) feet.

(4) **Circulation.** The following on-site circulation standards shall apply:

(a) **Interior.** Interior parking shall be provided in the form of aisleways adjacent to the storage bays. These aisleways shall be used both for circulation and temporary customer parking while using storage bays. The minimum width of these aisleways shall be twenty-one (21) feet if only one-way traffic is permitted, and thirty (30) feet if two-way traffic is permitted.

(b) **Flow.** The one- or two-way traffic flow patterns in aisleways shall be clearly marked. Marking shall consist at a minimum of use of standard directional signage and painted lane markings with arrows.

(c) **Access.** Appropriate access and circulation by vehicles and emergency equipment shall be ensured through the design of internal turning radii of aisleways.

c. **Supplemental standards for limited access self-storage facilities.** In addition to the general standards above, limited-access self-storage facilities shall comply with the following regulations:

(1) **Height.** The structure shall meet the height requirements of the district. A parapet wall shall be constructed to screen roof-mounted air conditioning and any other equipment. The parapet wall shall be included in the height of the structure.

(2) **Architectural Compatibility.** The Board of County Commissioners may require one or more of the facades to incorporate architectural features on one or more facades to reduce the scale and mass of the structure. Elevations demonstrating the architectural treatment shall be submitted and approved prior to certification of the final site plan by the Development Review Committee. The Zoning Director may require the architectural elevations to be reviewed by the Board of County Commissioners if it is determined that the proposed architectural features do not correspond to the context and character of the surrounding land uses. Architectural treatment may be required to ensure that the building is compatible with surrounding land uses and does not appear as an industrial warehousing structure. Architectural treatment may include, but is not limited to:

(a) **Roof.** Use of varying roof heights, pitches and overhangs;

(b) **Windows.** Use of appearance of window openings in proportion to the overall facade and the horizontal or vertical emphasis of major building elements; and,

(c) **Materials.** Use of building materials to create visual details to provide relief in building mass. Elevations demonstrating the architectural treatment shall be submitted and approved prior to certification of the final site plan by the Development Review Committee. The Zoning Director may require the architectural elevations to be reviewed by the Board of County Commissioners if it is determined that the proposed architectural features do not correspond to the context and character of the surrounding land uses.

(3) **Loading.** Each entry point used to access hallways leading to the storage bays shall accommodate a minimum of two loading berths and related maneuvering area. The loading areas shall not interfere with the primary circulation system on site.

(4) **Parking.** Parking shall be provided in accordance with Sec. 7.2. Parking allocated to the storage bays shall be distributed among and conveniently located to the loading areas.

87.1 Shade House means an accessory agricultural structure consisting of a screened enclosure with a screened or rolled plastic roof used to protect plants from insects, heat and exposure to the sun. A shade house shall comply with the following supplementary use standards:

a. **Permits.** A shade house used for bona-fide agricultural purposes less than twelve (12) feet in height shall not be required to obtain a building permit.

b. **Urban Services Area.**

(1) **Less than 12 feet in height.** A shade house less than twelve (12) feet in height shall meet the minimum setbacks of the district.

(2) **Greater than 12 feet in height.** A shade house greater than twelve (12) feet in height shall be setback a minimum of twenty-five (25) feet from the front and side corner and fifteen (15) feet from the side interior and rear.

88. Single-family means the use of a lot or a structure for one (1) detached dwelling unit, excluding a mobile home but including a manufactured building. A single-family dwelling shall comply with the following supplementary use standards:

a. **SA district**. In the SA district, a single-family dwelling on a minimum lot area of ten (10) acres in the RR10 land use designation, and a minimum of twenty (20) acres in the RR20 land use designation, shall be permitted. A single-family dwelling on a lot less than ten (10) acres in the RR10 land use designation, and on a lot less than twenty (20) acres in the RR20 land use designation, shall be permitted only if the property meets the standards for a density exemption in the Comprehensive Plan.

b. **Excavation for ponds**. Standards for Type IA and Type IB Excavation for ponds are located in Sec. 7.6 (Excavation).

89. Solid waste transfer station means a facility where solid waste from several relatively small vehicles is placed into one relatively large vehicle before being transferred to a solid waste processing or disposal facility. Solid waste may be sorted but not processed at the transfer station. A solid waste transfer station use shall comply with the following supplementary use standards:

(1) **Compatibility, screening, buffering**. The proposed solid waste transfer station shall be properly located and buffered to ensure compatibility with surrounding uses. To ensure use compatibility with surrounding uses, adequate setbacks, and screening and buffering around the perimeter of the proposed solid waste transfer station shall be required at the time the facility is constructed. The standards shall be waived if any of landscape buffer is not visible from adjacent lots or rights-of-way. Required minimum lot size, setbacks, screening and buffering shall include, but not be limited to the following:

(2) **Setbacks**. No part of a transfer station or its accessory ramps and access roads shall be located within twenty-five (25) feet of any public road, drainage canal, lake, stream, navigable waterway or property line.

(3) **Screening and fencing**. All storage areas shall be effectively screened from view by walls, fences or buildings. Such screening shall be designed and installed to ensure that no part of a storage area can be seen from rights-of-way or adjacent lots. In no case shall the height of recyclable or recovered materials, or non-recyclable residue stored in outdoor areas exceed twenty (20) feet or the height of the principal building on the lot, whichever is greater.

(4) **Perimeter landscape buffer strips**. Buffer strips shall be installed using Alternative Landscape Strip Number 3, pursuant to Sec. 7.3.E.3.b (Compatibility landscape buffer strips) for facilities in industrial zoning districts contiguous to land zoned for industrial use. For all other facilities, Alternative Landscape Strip Number 4 shall be installed, provided that when the property line is contiguous to property in a residential district, the landscape buffer strip shall be a minimum fifty (50) feet in width.

a. **Access**. An access road that can be negotiated by loaded collection vehicles shall be provided to the entrance of the solid waste transfer station. Access shall not be provided on a residential street. Access shall be restricted to specific entrances with gates which can be locked at all times and which carry official notice that only authorized persons are allowed on the site.

b. **Drainage**. Untreated surface water runoff shall not be permitted to discharge directly into lakes, streams, drainage canals or navigable waterways other than into or through approved on-site containment areas.

c. **Storage areas**. All outdoor storage of recyclable materials shall be in leak-proof containers or located on a paved area that is designed to capture all potential run-off associated with the stored material. Run-off shall be handled in a manner that is in conformance with local, state and Federal regulations.

d. **Performance standards.** The operation of a solid waste transfer station shall conform to all other requirements of this Code.

e. **Consistent with Comprehensive Plan.** The proposed solid waste transfer station shall be consistent with the goals, objectives and policies of the Comprehensive Plan and this section.

f. **Supplemental application requirements.** In addition to the standard requirements of this Code, applications for solid waste transfer stations shall include the following:

(1) **Access.** Graphic illustration and narrative analysis of year round access routes to the site.
(2) **Type.** An explanation of the type of facility requested. It shall specify the type of materials to be handled and include a description of the proposed method of operation, including special waste handling procedures and limitations.
(3) **Waste.** An estimate of the quantity of waste to be received, expressed in cubic yards per day or tons per day.
(4) **Hours of operation.** A statement specifying the hours of operation.
(5) **SWA permit.** Verification that the applicant has obtained a permit from and posted a bond with the Solid Waste Authority (SWA) before site plan approval. This SWA permit shall be consistent with the procedures for approval of an amendment to the Official Zoning Map.

90. Stable, commercial means a commercial establishment for boarding, breeding, training or raising of horses not necessarily owned by the owners or operators of the establishment, rental of horses for riding, or other equestrian activities, excluding uses classified as equestrian arena. A commercial stable use may be operated in conjunction with a residence and shall comply with the Animal Care and Control Regulations pursuant to Ord. 89-2, as amended, as well as the following supplementary use standards:

a. **Limitations of use.** Commercial stables shall be limited to the raising, breeding, training, boarding, and grooming of horses, or rental (livery) of horses for riding.

b. **Minimum lot size.** The minimum lot size shall be three (3) acres in the CRE district and five (5) acres in all other permitted districts, except that stables which rent horses (livery) shall have a minimum of ten (10) acres.

c. **Frontage.** The minimum required frontage on a public road to be used from the primary point of access shall be one hundred (100) feet or the minimum standard of the district in which the commercial stable is located, whichever is greater.

d. **Setbacks.** No structure or stable shall be located within twenty-five (25) feet of any property line, or the minimum setback standard of the district in which the commercial stable is located, whichever is greater.

e. **AGR, SA, RSER and AR districts.** In the AGR, SA, RSER, AR and districts, rental of horses for riding shall be permitted only if approved as a Class "B" Conditional use.

f. **CRS district.** In the CRS district, rental of horses for riding shall be permitted only if approved as a Class "A" Conditional use.

91. Stable, private means the care of horses owned by the occupants or owners of the premises. A private stable shall comply with the Animal Care and Control Regulations pursuant to Ord. 89-2, as amended as well as the following supplementary use standards:

a. **Limitations of use**. A private stable shall be limited to the boarding, breeding, training or raising of horses owned by the occupants or owners of the premises.

b. **Boarding**. On sites of at least two (2) acres, boarding for up to four (4) horses not owned by the owner or occupant of the premises shall be permitted.

c. **Setbacks**. No structure or stable shall be located within twenty-five (25) feet of any property line, or the minimum setback standard of the district in which the private stable is located, whichever is greater.

92. Agricultural stand means a temporary stand, less than 150 square feet, used for the retail sale of agricultural products, not necessarily grown on site, consisting of fresh unprocessed fruit, vegetables, flowers, and containerized interior house plants. The stand shall comply with the following supplementary use standards:

a. **Approval.** An agricultural stand is permitted subject to a special use permit approval. Application shall be made on forms provided by the Zoning Director.

b. **Locational criteria.** The stand and accessory area shall be:
   i. permitted only in the AGR, AP, AR/Rural, AR/USA, SA, RSER, CRS, CN, CC, CHO, CG, CRE, IL and IG districts;
   ii. located on an arterial roadway designated on the Palm Beach County Thoroughfare Plan;
   iii. located a minimum of one hundred (100) feet from an intersection of an arterial and any other dedicated right-of-way;
   iv. located at least six hundred (600) feet from any other agricultural stand permitted in accordance with these provisions; if located in a zoning district other than a commercial district; and,
   v. located at least 500 feet from adjacent residential uses.

c. **Number.** Only one (1) stand shall be permitted on a lot of record.

d. **Size and configuration.** The stand and accessory area shall not exceed 150 square feet. The accessory area shall be limited to display, storage and cashier purposes and shall be covered by a removable cantilevered canopy or umbrellas. No outdoor display or storage shall occur outside of the stand, umbrella or canopy area.

e. **Uses.** The use of the stand shall be limited to those uses identified above. No on-site food preparation or processing shall be permitted. No vending machines shall be permitted on site. No additional special permits shall be permitted in conjunction with the stand except for seasonal sales. Seasonal sales may be permitted in accordance with Sec. 6.4.D.83 of this code.

f. **Mobility.** The stand shall be transportable, retain its mobility, and have a frame of sufficient strength to withstand being transported. The stand shall be transportable by wheels, skids or hoist.

g. **Building Materials.** The stand shall be constructed of durable materials such as but not limited to metal, fiberglass, wood, etc. The structure used for a stand shall be constructed for the sole purpose of selling agricultural products. Semi-trucks, mobile homes, and other permanent or temporary structures shall not be used as a stand. Motor vehicles, including vans and small trucks may be permitted provided the vehicle is removed from site at the end of each business day. These vehicles shall not be used for permanent or temporary residential purposes.

h. **Sanitation.** The stand shall provide sanitary facilities in accordance with the laws of Palm Beach County and State of Florida, as applicable.

i. **Electricity.** Electricity may be connected to a stand for lighting, cash register, refrigeration and fans. Electricity shall not be used for preparation of food, and other uses similar to a vegetable market or a convenience store. Electrical service to a site shall be provided in accordance with the electrical code. If a generator is used on site, it shall meet the supplemental requirements established by the Palm Beach County Chief Inspector and Palm Beach County Fire Rescue Department.

j. **Refrigeration.** Refrigeration shall be contained within the confines of the 150 square foot stand. Appropriate permits shall be obtained. If a motor vehicle is used for the stand, portable refrigeration may be used if contained as part of a motor vehicle and removed from the site daily.

k. **Setbacks.** The stand shall be set back at least thirty-five (35) feet from the front property line and fifty (50) feet from all other parcel boundaries, designated for the stand.

l. **Signage.** Signs for vendors shall be limited to two (2) signs, with a combined maximum sign face area of thirty-two (32) square feet single-faced or sixty-four (64) square feet double-faced. The sign shall be no closer to any property line than the vendor stand. Banners, pennants, balloons or flags shall be prohibited.

m. **Concurrency and Impact Fees.** A concurrency certificate is not required for stands 150 square feet or less. Impact fees shall be paid prior to issuance of the special permit in accordance with the impact fee schedule contained in Art. 10.

n. **Permission.** The vendor shall receive written permission from the property owner.

o. **Insurance.** Submit proof of liability insurance paid in full covering the period for which the permit is issued, in the minimum amount of three hundred thousand dollars ($300,000) per occurrence.

p. **Renewal of special permit.** The special permit shall expire within one year from the date the permit was issued. The special permit may be renewed annually in accordance with Sec. 5.5.E.9 of this code.

q. **Existing stands.** All stands with a valid permit in effect on July 11, 1995, and which have been operating continually with a valid occupational license since issuance of the valid permit, shall be grandfathered. These operations may continue in the configuration as existed on July 11, 1995 in accordance with the laws and ordinances of Palm Beach County, Florida, and as provided herein:

1. the enclosed portion of the stand shall not exceed three hundred (300) square feet unless provided for below;
2. display of products immediately adjacent to the stand, whether or not displayed under an umbrella or canopy, may continue in the same configuration as existed on July 11, 1995;
3. the stand shall not sell any products unless permitted in accordance with the uses permitted to be sold in an agricultural stand as set forth in this subsection, as amended.
4. portable refrigeration may be permitted if confined within the three hundred (300) square foot stand and all required electrical permits have been obtained; and,
5. the use of vending machines shall not continue.

Expansion of existing stands shall not be permitted. Any future expansion of an existing stand shall comply with the regulations of this section. If an existing stand is expanded, repaired, or altered, the affected area shall comply with the regulations herein. **[Ord. No. 95-38]**

92.1 Storage, agricultural means the storage of equipment or products accessory or incidental to a primary agricultural use. Agricultural storage shall comply with the following supplementary use standards:

a. **General.** Any storage of hazardous waste or regulated substances shall comply with local, state and federal regulations.

b. **Outdoor storage.** Outdoor agricultural storage shall comply with the following supplementary use regulations:
   (1) **AR district in Urban Service Area.** Outdoor storage shall meet the setbacks of the AR district.
   (2) **Residential, Commercial and Industrial districts in the Urban Service Area.** Outdoor agricultural storage shall comply with the following:
      (a) **Setbacks.** Outdoor agricultural storage shall meet the setbacks of the specific district.
      (b) **Screening.** Outdoor agricultural storage shall be screened from view by a solid fence, wall or building.

c. **Enclosed storage.** Enclosed agricultural storage shall be permitted in conjunction with a bona fide agricultural use with or without a principal structure. Enclosed storage shall be contained within a permanent structure. Mobile homes and shipping containers shall not be permitted.
   (1) **AR district in Urban Service Area.** An enclosed structure shall be setback one hundred (100) feet in the front and side corner and fifty (50) feet in the side interior and rear.
   (2) **Residential, Commercial and Industrial districts in the Urban Service Area.** An enclosed structure shall meet the principal use setback of the specific district.

93. Sugar mill or refinery means an establishment for the extraction and refining of sugar from agricultural products. A sugar mill or refinery use shall comply with the following supplementary use standards:

a. **SA district.** In the SA district a sugar mill or refinery shall have a three hundred (300) foot setback from residentially occupied or zoned property. In the SA district, a sugar mill or refinery use shall be permitted on land within the RR10 land use designation in the Future Land Use Element of the Comprehensive Plan.

THIS PAGE INTENTIONALLY LEFT BLANK

94. Theater drive-in means an establishment for the outdoor viewing of motion pictures by patrons while in their automobiles. A drive-in theater use shall comply with the following supplementary use standard.

a. **CRE district.** In the CRE district, a drive-in theater use shall not be located in an RR10 land use designation of the Comprehensive Plan.

95. Townhouse means a dwelling unit located on an individual lot and attached by at least one but no more than two (2) party wall(s) along fifty percent (50%) of the maximum depth of the unit, to one (1) or more other dwelling units; has a continuous foundation; each on its own lot, with said party wall(s) being centered on the common property line(s) between adjacent lots. A townhouse development shall comply with the following supplementary use standards. In the case of conflict with the property development regulations of the district, these standards shall apply.

a. **General development regulations.** See Sec. 6.5, Property development regulations for additional general development regulations not included in this section.
   (1) **General.** Townhouse developments in the RTU zoning district or in the RS zoning district that lie within the MR5 future land use category shall require a Conditional Use A approval.

b. **Minimum lot area.**
   (1) **Size.** No townhouse lot shall be less than sixteen hundred (1,600) square feet.
   (2) **Ownership.** Where any portion of the original lot is not divided among and incorporated into the resulting townhouse lots, then that portion of the original lot shall be held by either of the following or a combination of the following:
      (a) **Common area.** The lot owners, in which event each lot owner shall have an undivided interest in the common area, which shall be appurtenant to that lot. The individual interest in the common areas shall not be conveyed separately from the ownership of said lot; or
      (b) **Property owners association.** A property owners association.

c. **Minimum lot width.** The minimum width of a townhouse lot shall be sixteen (16) feet and the minimum area to be conveyed shall be not less than one hundred (100) percent of the total ground floor building area of the dwelling unit. Where one hundred (100) percent of the townhouse lot is conveyed in fee simple then a homeowners maintenance association shall be formed among the unit owners to assure compliance with exterior area maintenance regulations as may be adopted by the association.

d. Setbacks and separations. A townhouse development shall comply with the following setbacks and separations:

(1) Minimum townhouse setbacks from streets.

YARD	SETBACKS (25' Maximum Building Height)	SETBACKS (35' Maximum Building Height)
Front	25 feet - garage 15 feet - unit	30 feet - garage 20 feet - unit
Side (interior)	15 feet	25 feet
Side (street)	25 feet	25 feet
Rear	25 feet	25 feet

NOTES:

(a) Setbacks shall be measured from perimeter property lines, perimeter landscape areas (if within a PPD), canal rights of way, residential access streets and road rights of way;

(b) Townhouse units shall also be setback a minimum distance of ten (10') feet from parking tracts. Townhouse units developed on parking tracts shall not support garages (attached or detached), as part of the unit.

(c) Townhouse units which abut a perimeter landscape area or a passive open space area, (lake, canal, neighborhood park, etc.) may reduce the minimum rear or side building setback distance by twenty five (25) percent, (See Sec. 6.5.G.5, Setbacks abutting passive open space). This setback reduction shall not be used in conjunction with other setback reduction regulations.)

(d) Recreation buildings and other structures allowed within townhouse developments which are not considered accessory structures shall comply with the setback and separation requirements of this section.

(e) Townhouse buildings located within a planned development may request flexible regulations for side and rear building setbacks by applying to the DRC as described in Sec. 6.8.A.8.e.(1), Regulating Plan.

(2) Minimum townhouse separations.

YARD	SEPARATIONS (25' Maximum Building Height)	SEPARATIONS (35' Maximum Building Height)
Front	25 feet	30 feet
Side (interior)	15 feet	25 feet
Side (street)	25 feet	25 feet
Rear	25 feet	25 feet

NOTES:

(a) For a townhouse with a one (1) car garage, a driveway, twenty feet in length, shall be provided.

(b) Separations shall apply to the proximity of one townhouse building (group of attached townhouses) to another.

(c) Minimum townhouse separations do not apply to the proximity of an accessory structure to a townhouse unit.

(d) Townhouse buildings located within a planned development may request flexible regulations for side and rear building separations by applying to the DRC as described in Sec. 6.8.A.8.e.(1), Regulating Plan.

e. **Height**. No building or structure shall exceed thirty-five (35) feet.

f. **Accessory buildings and structures**. No detached accessory buildings or structures other than permitted fences or walls shall be permitted on any lot less than thirty (30) feet in width.

g. **Access and parking**. Townhouse lots may be arranged in groups fronting on residential access streets (if located within a Planned Development) or fronting on parking tracts as allowed in Sec. 8.22, Access and Circulation Systems. Minimum parking requirements shall in accordance with Article 7.2, Off-street parking and loading of this Code.

h. **Replacement of similar structure**. In the event a townhouse unit developed pursuant to this section is destroyed or removed by or for any cause, the unit, if replaced, shall be replaced with a unit of at least similar size and type, that does not exceed the dimensions of the prior unit.

i. **Issuance of certificate of occupancy**. An attached townhouse building shall be developed as a whole, and no certificate of occupancy for a townhouse unit shall be issued until completion of one or more adjacent units and the entire attached building exterior, parking and landscaping.

j. **Minimum townhouse attachment**. A townhouse unit shall be attached to another townhouse unit along a minimum of fifteen (15) feet of the length of the unit. This minimum attached length between townhouses is limited to the portion of a building supporting an air conditioned living area, a garage or a storage area and shall share a continuous foundation with the townhouse building.

96. Utility, minor means elements of utility distribution, collection, or transmission networks, other than electrical generation and transmission voltage facilities, required by their nature to be relatively dispersed throughout the service area. Typical uses include gas and water regulations, electrical distribution substations, sewage lift stations, and telephone exchange buildings and substations. A minor utility use shall comply with the following supplementary use standards:

a. **Location**. The proposed minor utility shall be located within reasonable proximity of the area to be served by the facility.

b. **Compatibility, buffering, screening**. The proposed minor utility shall be properly located and buffered to ensure compatibility with surrounding land uses. If deemed necessary to ensure compatibility with surrounding uses, adequate setbacks, screening and buffering around the fenced area of the utility shall be required at the time the facility is developed. The standards shall be waived if any of the required landscape buffer is not visible from adjacent lots or rights-of-way.

c. **Compliance with the Code and state and federal laws**. The proposed utility shall meet all requirements of this Code and all other relevant state and federal laws.

d. **Maximum size of structure**. The minor utility structure, buildings, and appurtenances shall not exceed fifteen hundred (1,500) square feet of gross enclosed floor area.

97. Vehicle sales and rental means an establishment engaged in the retail or wholesale sale or rental, from the premises, of motorized vehicles or equipment or mobile homes, along with incidental service or maintenance. Typical uses include new and used automobile sales, automobile rental, boat sales, boat rental, mobile home, manufactured housing and recreational vehicle sales, construction equipment rental

yards, moving trailer rental, and farm equipment and machinery sales and rental. A vehicle sales and rental use shall comply with the following supplementary use standards:

a. **Minimum Lot Size.** The minimum lot area for vehicle sales and rentals is three (3) acres, except:

(1) **IL district.** in the IL District, and
(2) **Rental.** for truck and trailer rental accessory to an auto service station, not exceeding five (5) trucks or trailers for rent.

b. **Parking.** Unless otherwise provided for in this section, all vehicular use areas and specialized vehicular use areas for display, sale, rent, or storage purposes shall comply with the standards set forth in Sec. 7.2 (Off-street Parking Regulations) and Sec. 7.7 (Driveways and Access).

(1) **Display.** Motor vehicle display, sales, rental and storage.
(a) **Storage.** Motor vehicle dealerships may store vehicles outdoors on an improved parking surface without reference to parking stalls, backup distances, parking stall striping or wheel stops. For outdoor motor vehicle sales and display parking, signs and stall striping are not required, but in all other respects, outdoor sales and display parking shall conform to the provisions of Sec. 7.2 (Off-street Parking Regulations). Parking for vehicle storage, sales or display may not be counted toward meeting the number of required off-street parking spaces to be provided for customers and employees.
(b) **Display.** If a specialized vehicular use area is utilized for display of vehicles, there shall be a barrier separating it from customer parking. This barrier may be in the form of a landscape strip, curbing, removable bollards or other suitable barrier approved by the Zoning Director.
(c) **Vehicles.** No vehicle shall be parked with its hood or trunk open. Motor vehicles on display shall not be elevated.
(2) **Customer parking.** Customer parking shall be marked with an above grade sign and shall be physically separated from the motor vehicle sales, storage and display space.
(3) **Security.** When the facility is not open, the parking area shall be locked and gated.

c. **Car wash.** If an accessory car wash facility is installed on site, it shall use a water recycling system.

d. **Loudspeakers.** No outdoor speakers or public address systems that are audible from the exterior of the site shall be permitted.

e. **Accessory repairs and parts sales.** Repair facilities and sales of parts may be provided as an accessory use. Repair facilities and paint and body shops shall be located at least one hundred (100) feet from any residential district lot. Service bay doors shall not be oriented toward any adjacent property in a residential district, or oriented toward any adjacent public street. There shall be no outdoor repair of vehicles. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site.

f. **Unloading space.** The development shall include an area on site to unload vehicles from car carriers. This area shall be a minimum of fifteen (15) feet wide and sixty (60) feet long, shall have sufficient maneuvering area adjacent to it, shall be located out of the vehicular traffic circulation and shall not be adjacent to residential district lots. The unloading area shall be located a minimum of one hundred (100) feet from any property in a residential district.

g. **Operating conditions.** No vehicles, other than for customer and employee parking, shall be stored or displayed on the site except those which are intended for sale and are in running condition. Motorcycles, auto, truck, boat, mobile home, and recreation vehicles shall be maintained in a safe operating condition at all times. If in a used condition, they shall have a current valid license plate.

h. **Sales office.** No mobile home, recreational vehicle, or other vehicle shall be used as sales offices, storage space or for sleeping purposes. Sales offices and storage shall be contained in buildings in conformance with the Palm Beach County Building Code and Fire Code.

i. **Fencing and screening.** A safety fence of up to a height of six (6) feet shall be required if it is determined necessary to protect the general public health and safety. Screening of at least seventy-five (75) percent opacity shall be required if it is determined necessary to protect neighboring property from potential loss of use or diminishment of land value. On property lines not adjacent to a public street, there shall be provided a chain-link fence or wall eight (8) feet in height from the finished grade.

j. **IL district.** In the IL district, a vehicle sales and rental use shall be limited to the following.

(1) **In conjunction with repair facility.** A vehicle sales and rental use in conjunction with a general repair and maintenance use shall be permitted, subject to the following standards:

(a) **Limitations.** The vehicle sales and rental uses shall be limited to a maximum of five (5) vehicles per lot and shall be subject to development review committee.

(b) **Display.** Vehicles on display must be within fifty (50) feet of a repair bay.

(c) **Site plan.** Site plan approval shall be based on the standards in Sec. 6.4.D (Vehicle sales and rental—parking).

(2) **Truck and trailer rental.** Truck and trailer rental limited to a maximum of five (5) vehicles per lot shall be permitted subject to Development Review Committee. Truck and trailer rental exceeding five (5) vehicles per lot shall be permitted only if approved as a Class "B" Conditional use.

(3) **Automobile rental.** Automobile rental shall be permitted as a Class "A" Conditional use.

(4) **Mobile home, RV sales, heavy equipment or rental.** The sale or rental of mobile or manufactured homes, recreational vehicles or heavy equipment shall be permitted as a Class "B" Conditional use.

k. **Accessory truck and trailer rental.** Accessory truck and trailer rental limited to a maximum of five (5) vehicles per lot may be permitted subject to DRC review. Truck and trailer rental exceeding five (5) vehicles shall be permitted only if approved as a Class "B" conditional use.

97.1 **Vehicle repair and related services, minor mobile** means a business which travels to the customer's vehicle in order to perform minor repairs or related services. Mobile minor vehicle repair and services shall be subject to the following standards:

a. **Registration.** Registration with the Florida Department of Agriculture and Consumer Affairs is required for minor auto repair.

b. **Insurance.** Liability insurance as required by the Florida Department of Agriculture and Consumer Affairs shall be obtained.

c. **Regulations.** There shall be adherence to all regulations of the United States Environmental Protection Agency regarding leakage or spills of toxic fluids.

d. **Recycling.** All oils and fluids must be recycled using the methods prescribed by the United States Environmental Protection Agency.

e. **Home occupation.** If the repair or service is a home occupation, there must be adherence to all home occupation standards as required in Sec. 6.4. and to all parking standards for residential districts as required in Sec. 7.2.

98. Veterinary clinic means an establishment engaged in providing medical care and treatment for animals. A veterinary clinic use shall comply with the following supplementary use standards:

a. **RSER districts**. In the RSER district, a veterinary clinic shall not have outdoor runs or facilities.

b. **AR and SA district**. In the AR and SA districts, a veterinary clinic use shall be for livestock only and shall be located on a minimum of five (5) acres.

c. **AR and CRS in the Urban Service Area**. In the AR and CRS districts in the Urban Service Area, a veterinary clinic shall be only for large animals.

d. **CN district**. In the CN district, a veterinary clinic shall not have outdoor facilities nor occupy more than one thousand five hundred (1,500) square feet of gross floor area.

e. **Outdoor runs**. Veterinary clinics with outdoor runs or boarding facilities shall comply with the following standards:

(1) **Minimum lot area**. The minimum lot size shall be one (1) acre.
(2) **Setbacks**. No outdoor run or boarding structure shall be located within twenty-five (25) feet of any property line.
(3) **Design**. Outdoor runs shall be hard surfaced or grassed with drains provided every ten (10) feet, and shall be connected to an approved sanitary facility. Outdoor runs shall provide a chain-link material on the walls and the top. If necessary to protect the general public, safety fences of up to a height of six (6) feet shall be required on outdoor runs. If necessary to protect neighboring property from potential loss of use or diminishment of land value, a landscape screen of at least seventy-five (75) percent opacity shall be provided around the outdoor run.

99. Vocational school means an establishment, for profit or not, offering regularly scheduled instruction in technical, commercial, or trade skills such as, but not limited to business, real estate, building and construction trades, electronics, computer programming and technology, automotive and aircraft mechanics and technology, or other types of vocational instruction. A vocational school use shall comply with the following supplementary use standards:

a. **RSER, CC and CG districts**. In the RSER, CC and CG districts, a vocational school use shall not involve heavy equipment or machinery, motor vehicle engines, or aircraft, unless approved as a Class "A" Conditional use.

100. Warehousing means an establishment engaged in the storage of materials, equipment, or products within a building for manufacturing use or for distribution to wholesalers or retailers, as well as activities involving significant movement, breaking of bulk and storage of products or equipment. Typical uses include motor freight transportation, moving and storage facilities, cold storage, warehousing and dead storage facilities, but exclude self-service storage facilities and office-warehouse combinations. A warehouse use shall comply with the following supplementary standards:

a. **Accessory Office.** A general warehouse use with an accessory office shall be equipped with sanitary facilities.

b. **Parking.** The commercial establishment shall require limited off-street parking.

c. **Public Access.** Storage of stock-in-trade, equipment or material best kept in a warehouse-like environment shall not be open to the general public.

d. **Sales.** Retail sales shall be prohibited.

e. **Storage.** All materials shall be stored entirely within an enclosed building.

f. **Manufacturing.** No manufacturing, assembly or processing shall take place on site.

g. **Office/Warehouse in the WCRA-O.** An office warehouse combination is a construction office for special trade contractors, or a commercial wholesale trade establishment consisting of a mix of small scale, independent business offices each having a contiguous, accessory enclosed storage area which is internally accessible to the office. Only WCRA-O shall be permitted to receive approval for an office-warehouse use pursuant to a Class A Conditional Use.

(1) **Office space.** The minimum percentage of office space supporting the warehouse use shall be twenty-five (25) percent of the gross floor area.
(2) **Regulations.** The approved office-warehouse combination shall follow the warehouse regulations a.- f. as shown in this section.

h. **Conforming use status of prior approvals.** Office-warehouse combinations that were approved by special exception or other previous approvals, prior to adoption of this section [June 2, 1992] shall be considered to be a conforming land use. The approved office/warehouse combination shall follow conditions a through f above.

101. Water or wastewater treatment facility and dewatered domestic wastewater residuals land application means a facility designed for treatment and disposal of more than five thousand (5,000) gallons per day of wastewater, including large regional plants and above ground package treatment facilities. A water or wastewater treatment facility use shall comply with the following supplementary use standards in all zoning districts. Dewatered domestic wastewater residuals may be applied to land when found to comply with subsection i below.

a. **Location.** The location of the proposed water or wastewater treatment facility shall be within reasonable proximity of the area to be served by the facility.

b. **Stock piling of sludge.** Stock piling of sewage sludge on site is prohibited without odor control.

c. **Facility Odor.** Facilities shall be designed and operated to restrict objectionable odor from entering adjacent properties.

d. **Compatibility, buffering, screening.** The proposed water or wastewater treatment facility shall be properly located and buffered to ensure compatibility with surrounding land uses. Adequate setbacks, screening and buffering around the perimeter of the proposed water and/or wastewater facility site shall be required at the time the facility is developed . For purposes of this section, the AR-Agricultural Residential Zoning District is not considered a residential district. Required setbacks, screening and buffering shall include, but shall not be limited to, the following:

Table 6.4-6
WASTEWATER TREATMENT FACILITY SETBACKS

Type/Capacity	Type of Facility	Setbacks from Residential and Commercial Zoned Property	Setbacks From Non-Residential or Non-Commercial Zoned Property
Wastewater treatment facilities over one million gallons per day capacity:	Head works, clarifiers, sludge treatment & handling facilities without odor control	750 feet	500 feet
	Head works, clarifiers, sludge treatment & handling facilities with odor control	300 feet[4]	200 feet[1]
	Chemical storage facilities	300 feet	200 feet
	Accessory facilities	200 feet	100 feet
Wastewater treatment facilities up to one million gallons per day capacity including package treatment facilities	Treatment units without odor control	150 feet	150 feet
	Treatment units with odor control	100 feet[1]	100 feet[1]
	Chemical storage facilities	100 feet	100 feet
	Accessory facilities	100 feet	100 feet

NOTES:
1 Minimum lot dimensions shall be governed by the regulations above or the most recent standards adopted by the District and shall apply only to new schools. The District shall forward any changes in the standards to the Department within twenty (2) days of School Board adoption. Minimum lot dimensions shall include, if applicable, sufficient room for any onsite retention.
4 Tertiary filters do not require odor control.

Table 6.4-7
WATER TREATMENT FACILITY SETBACKS

Type/Capacity	Type of Facility	Setback
Water treatment facilities over two millions gallons per day capacity.	Treatment units and chemical storage	200 feet
	Units which will cause airborne sulfides	500 feet[5]
	Accessory facilities	100 feet
Water treatment facilities up to two million gallons per day capacity including package treatment facilities	Treatment units and chemical storage	100 feet
	Units which will cause airborne sulfides	250 feet[2]
	Accessory units	100 feet

NOTES:

2 **Maximum building height.** Structures higher than thirty-five (35) feet are allowed provided the following setbacks are met:
  a. The minimum yard setbacks of this section; and
  b. An additional one (1) foot setback for each one (1) foot in height exceeding thirty-five (35) feet.

5 Unless treatment for removal of sulfides for odor control is included.

---

(1) **Buffer.** Perimeter landscape buffer strips with a minimum width of twenty-five (25) feet;
(2) **Trees.** Double rows of trees planted within landscape buffers at a ratio of one (1) twelve (12) foot tall tree for each thirty (30) linear feet of abutting property line or fraction thereof; and
(3) **Screening.** Screening around the perimeter of the site, consisting of a hedge, earthen berm, fence or wall which will present a solid visual screen at least six (6) feet in height within one (1) year of installation.

e. **Complies with the Code and state and federal laws.** The proposed water or wastewater treatment facility meets all requirements of this Code and all other relevant state and federal laws.

f. **Consistent with the Comprehensive Plan.** The proposed water or wastewater treatment facility is consistent with the goals, objectives and policies of the Comprehensive Plan.

g. **Package water or wastewater treatment facility.** If a package water or wastewater treatment facility is developed, the following additional standards shall be met.

(1) **Confirmation.** If a package treatment facility is proposed to be developed in the designated Urban Service Area (USA) in the Comprehensive Plan, confirmation shall be provided from the appropriate public utility that central water or wastewater service is not available at the time the application for development permit is submitted, and that service is projected to be available within four (4) years of that date;
(2) **Duration.** The use of package treatment facilities in the USA shall be permitted only until such time as central water or wastewater service is available from the appropriate public utility;
(3) **LSA.** If the package wastewater treatment facility is proposed to be developed in the designated Limited Service Area (LSA) of the Comprehensive Plan:

(a) **Confirmation.** Confirmation is provided from the PBCPHU that use of a package wastewater treatment plant is necessary to protect water quality; and

(b) **Certification.** A certificate is provided by the PBCPHU that the uses proposed can be adequately served with a package wastewater treatment plant.

(4) **RSA.** If the package treatment facilities are proposed to be developed in the designated Rural Service Area (RSA) of the Comprehensive Plan, there shall be demonstrated evidence that it is to be used to provide potable water or wastewater service to bona fide agricultural uses, public recreational uses, public educational uses, or other uses when found to be consistent with the Comprehensive Plan and upon approval of the Director of the Palm Beach County Public Health Unit based on standards in Sec. 6.4.D.101.g.(3).(a) and (b) above. The Palm Beach County Public Health Unit may impose conditions or restrictions necessary to protect public health and prevent the creation of a sanitary nuisance. All package plants in the RSA shall be operated and maintained by a public utility. Based on the standards of operator coverage in 17-602, Florida Administrative Code, the BCC, upon sufficient justification, may require a higher level of operator coverage.

(5) **Standards.** Package treatment facilities, where permitted, shall be designed and installed in accordance with all relevant state, federal and local utility standards.

h. Effect on previously approved facilities . Water and wastewater treatment facilities approved prior to the effective date of this section shall not be considered nonconforming uses. Expansion of existing facilities may be allowed with setbacks lower than those listed in the table in this section provided the expansion is reviewed and approved by the DRC and if odor control is provided for significant sources of odor.

i. Dewatered Domestic Wastewater Residual Land Application: Class A or B Dewatered Domestic Wastewater Residuals (DDWR), as defined by Chapter 17-640, F.A.C. and Article 3 of this Code, may be applied to the land at bonafide agricultural operations in the AP, AGR and AR zoning districts as specified below. Class AA DDWR, as defined by Chapter 17-640, F.A.C. and Article 3 of this Code, has unlimited distribution pursuant to Chapter 17-640, F.A.C. Nothing herein shall preclude disposal of DDWR at a landfill or at a wastewater treatment facility in compliance with applicable federal, state and local regulations nor effect any DDWR operation approved prior to the effective date of this section (insert date).

(1) **AP and AGR districts:** Land application of class A or B DDWR shall be permitted on the site of bonafide agricultural operations as a matter of right in the AP and AGR zoning districts in compliance with DER standards in Chapter 17-640, as verified by the Palm Beach County Public Health Unit prior to land application. Following verification, the Palm Beach County Public Health Unit shall be notified of the proposed first date of the land application no fewer than thirty days prior to land application.

(2) **AR district:** Land application of class A or B DDWR shall be permitted in the AR zoning district on the site of bonafide agricultural operations following approval by the Development Review Committee (DRC). An applicant shall demonstrate compliance with DER standards except that the required separation from buildings and other property lines shall be as specified below. In the case of several adjacent properties which all apply DDWR to the land, the properties may be combined for the purpose of measuring the required separation and the separation may be measured from the boundary of the most exterior application area.

(a) **External separation.** There shall be a minimum separation of five hundred (500) feet from any off-site structure occupied on a daily or frequent basis by people. This distance shall be measured from the perimeter of the DDWR application area outward toward the structure.

(b) **Internal separation.** Internal to each site, there shall be a minimum two hundred (200) hundred foot separation from the perimeter of the DDWR land application area to the property line of the adjacent parcel.

These setbacks may be reduced or increased by the DRC when approved by the Director of the Palm Beach County Public Health Unit and found by the DRC to be consistent with the adopted Comprehensive Plan, the intent of this section, and the compatibility standards of this Code.

102. Wholesaling, general means an establishment engaged in the display, maintaining inventories of goods,storage, distribution and sale of goods to other firms for resale, or the supplying of goods to various trades such as landscapers,construction contractors, institutions, industries, or professional businesses. In addition to selling, wholesale establishments sort and grade goods in large lots, break bulk and redistribute in smaller lots, delivery and refrigeration storage,but excluding vehicle sales, wholesale greenhouses or nurseries, wholesale of gas and fuel, and wholesale building supplies. A general wholesaling use shall comply with the following supplementary use standards:

a. **IG and IL Districts.** In the IL and IG districts a general wholesaling or warehouse use which has an accessory office shall be equipped with sanitary facilities.

103. Zero lot line home means the use of a lot for one (1) detached dwelling unit with at least one (1) wall, but not more than two (2) walls or a portion thereof, located directly adjacent to a side lot line, excluding a mobile home but including a manufactured building. A zero lot line home development shall comply with the following supplementary use standards. In the case of conflict with the property development regulations of the district, these standards shall apply.

a. **General.** Zero lot line developments in the RTU zoning district or in the RS zoning district that lie within the MR5 future land use category shall require a Conditional Use A approval.

b. **Design standards.** A zero lot line development shall contain homes (dwelling units) which are constructed abutting a lot line and may contain side street homes (see 103.a.2, Side street homes, below). Zero lot line and side street homes have lot sizes and building setbacks which are substantially smaller than a typical single family house. Special attention is required to ensure that the design of the lot and home provides privacy and an outdoor recreation area for the residents. Zero lot line and side street homes shall comply with the following design standards:

(1) **Zero lot line home.** A zero lot line home shall be designed abutting one (1), but not more than two (2) property lines and shall comply with the following standards:

(a) **Minimum zero setback.** A minimum length of the home, twenty (20) feet, shall be located abutting a lot line and shall have a zero foot setback from the lot line. Credit towards meeting this minimum length requirement shall be granted for an air conditioned living area, a garage or a storage space which is attached or otherwise a part of the home. Attached shall mean that the buildings share a continuous foundation, and a portion of the buildings abut a lot line with a zero foot setback. If the home abuts two (2) lot lines, the minimum length measurement shall be cumulative for the two (2) lot lines;

(b) **Prohibited openings.** Openings such as doors or windows (including the second and third floors of the home), shall not be allowed in the portion of the home abutting the zero lot line.

(c) **Maintenance and roof eave encroachment easement.** The plat of a zero lot line development shall indicate the establishment of a maintenance and roof eave encroachment easement along the zero lot line.

i) **Easement width.** This easement shall be of sufficient width, minimum two (2) feet, to allow for the maintenance of the zero lot line wall and to accommodate the overhang of the roof eave and gutter.

ii) **Roof eave encroachment.** Roof eaves may project over the zero lot line up to a maximum of eighteen (18) inches provided that gutters are installed to prevent water runoff onto the abutting property.

iii) **Drainage easement.** Eaves shall not project over drainage easements. No construction shall be permitted within an established easement, except as allowed in Sec. 6.5.H, Easement encroachment.

(d) **Atrium.** An atrium may be constructed along the zero lot line side of the home to provide light, air, and a means of emergency escape. A gate may be installed for emergency exit purposes provided the gate is: a minimum of thirty-six (36) inches in width to provide handicap access; a minimum of six (6) feet eight (8) inches in height; opaque (to maintain privacy); and, operable only from the inside with the door opening inward.

(e) **Recess minimum.** The remaining portion of the home may be recessed from the zero lot line by complying with the following standards:

i) **Distance.** The home shall be recessed a minimum distance of four (4) feet from the zero property line;

ii) **Openings.** Openings (doors or windows) in the recessed portion of the home shall not be adjacent to the outdoor patio or pool of another home unless the outdoor are is completely screened from view from the adjacent home.

(f) **Privacy wall or fence.** On every zero lot line home created pursuant to this section, a minimum five (5) foot high solid privacy wall or privacy fence (or combination thereof) shall be constructed along the zero lot line beginning at the rear of the home and extending a minimum distance of ten (10) feet toward the rear property line. The privacy wall shall ensure a minimum private outdoor living space for each unit.

i) **Screened roof enclosure.** A (5) foot high solid privacy wall constructed of masonry or other material acceptable to the Building Division shall be provided when a screened roofed enclosure extends to the zero lot line. The wall shall extend to the rear corner of the screened roofed enclosure.

ii) **Solid roof enclosure.** A (8) foot high solid privacy wall constructed of masonry or other material acceptable to the Building Division shall be provided when a solid roofed screen enclosure extends to the zero lot line. The screen enclosure shall be attached to the masonry walls. The wall shall extend to the rear corner of the solid roofed enclosure.

(g) **Final subdivision plan.** The design and function of zero lot line homes abutting lot lines on two (2) sides shall be graphically indicated on a final subdivision plan prior to review and certification by the Development Review Committee. The plan shall indicate typical home configurations including door and patio locations. In no event shall separations between units be less than ten (10) feet.

(h) **Use of glass block along zero lot line.** The use of glass block or similar translucent materials along the zero lot line shall be subject to the following provisions.

i) **Building code.** The glass block shall comply with all building code requirements, including product type, fire rating, energy codes, and other construction standards (refer to approved product list in the Building Division). In addition, manufacture's specifications regarding maximum area shall be adhered to.

ii) **Translucency.** Only translucent glass block, which allows no shapes to be visible through the block, shall be used.

iii) **Light transmission.** Only glass block with no more than sixty (60) percent exterior light transmission shall be used.

iv) **Limitation.** Use of glass block shall be limited to new construction only, unless permission of the home owners association and neighboring owner is obtained.

v) **Surface area.** The use of glass block shall be limited to less than fifty (50) percent of the surface area of the wall abutting the zero lot line.

vi) **Affidavit.** The applicant (property owner or contractor) shall submit a notarized affidavit that verifies the degree of light transmission and the translucency of the glass block to be used.

(2) **Side street home.** A side street home may only be located on a lot having a street on two (2) consecutive sides or otherwise located on a corner lot or a lot abutting an open space tract (lake, canal, recreation area, etc.) with a width of fifty (50) feet or greater. This home shall not abut a property line and shall comply with the minimum setback requirements of Table 6.4-8, ZERO LOT LINE DEVELOPMENT PROPERTY DEVELOPMENT REGULATIONS. It is important to note that a side street home is not required to follow the design standards of Sec. 6.4.D.103.a.(1), Zero lot line home.

(a) **Privacy fence.** On every side street lot created pursuant to this section a minimum five (5) foot high wall or privacy fence (or combination thereof) shall be constructed along the side interior lot line. This requirement shall be waived if the adjacent home is required to install a privacy fence along the same lot line. At a minimum, this fence shall be constructed along the interior lot line beginning at a point parallel to the rear of the home and continuing a minimum distance of ten (10) feet toward the rear property line.

c. **Property development regulations.** The property development regulations for zero lot line developments shall be as follows:

TABLE 6.4 - 8
ZERO LOT LINE DEVELOPMENT
PROPERTY DEVELOPMENT REGULATIONS

	INTERIOR LOT	CORNER LOT	CORNER LOT
		ZERO LOT LINE HOME	SIDE STREET HOME
Minimum Lot Size	4,500 s.f.	4,500 s.f.	4,500 s.f.
Minimum Lot Width And Frontage	45 feet	55 feet	60 feet
Minimum Lot Depth	75 feet	75 feet	75 feet
Minimum Front Setback	Front loading garage 25 feet Side loading garage 10 feet Living quarters 10 feet	Front loading garage 25 feet Side loading garage 10 feet Living Quarters 10 feet	Front loading garage 25 feet Side loading garage 10 feet Living Quarters 10 feet
Minimum Side Interior Setback	Non Zero Lot Line 10 feet Zero Lot Line 0 feet	 Zero Lot Line 0 feet	10 feet
Minimum Corner Setback	n/a	15 feet	15 feet
Minimum Rear Setback	10 feet	10 feet	10 feet
Maximum Building Height	35 feet	35 feet	35 feet
Maximum Lot Coverage	50% - building	50% - building	50% - building
Minimum Parking	2 spaces per unit	2 spaces per unit	2 spaces per unit

Notes to TABLE 6.4-8:

(1) **Lot size.** The gross density of the development shall be consistent with the allowable density of the Comprehensive Plan. This allowable density may result in a minimum lot size in excess of the forty-five hundred (4,500) square feet indicated above.

(2) **Minimum frontage and width.** Minimum frontage and width may be measured from the front building setback.

(3) **Driveway.** The driveway of a front loading garage or a side loading garage shall intersect the street at or near a ninety (90) degree angle to the road center line. At no time shall a street intersection for a driveway be approved which may endanger the health, safety, or welfare of the public.

(4) **Setback reduction.** Zero lot line and side street homes which abut a perimeter landscape area or an open space area with a minimum width of fifty (50) feet, (lake, canal, neighborhood park, etc.) may reduce the minimum rear building setback distance by a maximum of twenty five (25) percent, See Sec. 6.5.G.5, Setbacks abutting passive open space. This reduction shall not be used in conjunction with other setback reduction regulations.

(5) **Accessory building setbacks.** Accessory buildings shall meet the setback requirements for the principal structure.

(6) **Flexible regulations.** Zero lot line and side street homes located within a planned development may request flexible regulations for minimum lot dimensions and side and rear building setbacks by applying to the DRC as described in Sec. 6.8.A.8.e.(1), Regulating Plan.

(7) **Screening.** Mechanical equipment shall be appropriately screened and oriented away from the front door and private spaces of the adjacent lot.

---

d. **Access.** Zero lot line homes and side street homes within a planned development may front on a residential access street subject to Chart 8.22-2, Chart of Minor Streets. Residential subdivisions located outside of a planned development shall provide access to lots as required by Sec. 8.22, Access and circulation systems.

e. **Parking.** Each zero lot line and side street home shall have a minimum of two (2) parking spaces and shall comply with the requirements of Sec. 7.2, Parking and loading.

f. **Replacement.** In the event any home built under this section is destroyed or removed by or for any cause, the unit if replaced, shall be replaced with a unit of similar size and type, meeting the minimum requirements of this section. The developer shall include the appropriate deed restrictions and/or covenants so as to require replacement as outlined above.

104. Zoo means a place where animals are kept in captivity for the public to view. A zoo use shall comply with the following supplementary use standards:

a. **Location.** An outdoor wildlife preserve or attraction shall have a five hundred (500) foot buffer from an existing residential development or an area designated as a residential use in the Future Land Use Element of the Comprehensive Plan.

b. **Setback from residential.** No animal containment area shall be located within five hundred (500) feet of any residential district.

c. **SA district.** In the SA district, a zoo use shall have a five hundred (500) foot buffer from residentially occupied or zoned property in addition to the required minimum setbacks of these districts.

d. **AR district.** In the AR district, a zoo use shall be located on a minimum of ten (10) acres, and shall have a five hundred (500) foot buffer from residentially occupied or zoned property in addition to the required minimum setbacks of these districts.

[Ord. No. 93-4] [Ord. No. 93-17] [Ord. No. 94-23] [Ord. No. 95-8] [Ord. No. 95-24]

[Ord. No. 93-4; February 2, 1993] [Ord. No. 93-17; July 20, 1993] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-8; March 21, 1995] [Ord. No. 95-24; July 11, 1995]

SEC. 6.5 PROPERTY DEVELOPMENT REGULATIONS.

A. **Property development regulations schedule**. The minimum lot dimensions, minimum and maximum density, maximum floor area ratio (FAR), maximum building coverage, and minimum building setbacks for uses in each district shall be determined from Table 6.5-1, as may be modified by succeeding provisions of this section. Maximum building height shall be as specified in Sec. 6.0..H, Building height. Property development regulations for Overlay districts shall be as specified in Sec. 6.?, Overlay District Regulations. Property development regulations for Planned Development Districts shall be as specified in Sec. 6.8, Planned Development District Regulations. There are no property development regulations for the PO district. A project may be eligible to develop at the maximum density specified in this schedule provided all other property development regulations of this code are met.

TABLE 6.5-1
PROPERTY DEVELOPMENT REGULATIONS SCHEDULE

Zoning District	Min. Lot Dimensions			Density		Max FAR	Max. Bldg. Cover	Min. Bldg Setbacks (ft.)			
	Size	Width	Depth	Min.	Max.			Front[3]	Side	Street	Rear
PC	1 ac.	-	-	-	-	-	-	50	50	50	50
AGR	10 ac.	300	300	-	-	.10	10%	100	50	80	100
AP	10 ac.	300	300	-	-	.10	10%	100	50	80	100
SA	10 ac.	300	300	-	-	.15	10%	100	50	80	100
RSER	10 ac.	300	800	-	-	.35	20%	25	50	25	50
AR	10 ac.	300	300	-	-	.15	10%	100	50	80	100
CRS	10 ac.	300	300	-	-	.15	10%	100	50	80	100
RE	2.5 ac.	180	200	0.0	0.4		20%	50	40	50	50
RT	20,000	100	125	1.0	1.5		25%	25	15	25	25
RTS	14,000	100	125	1.0	2.0		25%	25	15	25	25
RTU	8,000	85	90	3.0	4.0		35%	25	10.5	10.5	20
RS	6,000	65	75	3.0	5.0		40%	25	7.5	15	15
RM	[1]*	65	75	5.0	6.0		35%	25	15	25	12
RH	[1]*	65	75	5.0	6.0		35%	25	15	25	12
CN	1 ac.	100	100	-	-	.35	25%	30	30	30	30
CLO	1 ac.	100	200	-	-	.35	25%	40	15	25	20
CC	1 ac.	100	200	-	-	.35	25%	30	30	30	30
CHO	1 ac.	100	200	-	-	.35	25%	40	15	25	20
CG	1 ac.	100	200	-	-	.35	25%	50	15	25	20
CRE	3 ac.	200	300	-	-	.50	25%	80	50	80	50
IL	1 ac.	100	200	-	-	.45	45%	40	15	25	20
IG	2 ac.	200	200	-	-	.45	45%	45	20	45	20

NOTES:

1 Lot sizes for the RM and RH districts are governed by the density indicated by the Comprehensive Plan, and compliance with property development regulations and design standards including, but not limited to: building setbacks, parking requirements, landscaping requirements, and building coverages. Consistency with the Comprehensive Plan dictates that proposed site plans and subdivisions are governed by the permitted density of the applicable land use category; a lot size which achieves this consistency, and complies with all relevant property development regulations and design standards, is therefore, an acceptable minimum lot size.

2 All principal buildings and uses require address signs pursuant to Sec. 7.14.D of this Code and the Palm Beach County Building Security Code.

3 Certain nonconforming lots may use the setback provisions in Sec. 1.9 of this Code.

4 Residential side interior and rear setbacks abutting open space may be reduced by twenty five (25) percent. See Sec. 6.5.G.5.

[Ord. No. 93-4] [Ord. No. 95-8] [Ord. No. 95-24]

B. General exceptions.

1. **CRS district in LR1.** Notwithstanding the standards of Table 6.5-1 (Property Development Regulations Schedule), when a CRS district is located in an area with an LR1 land use designation in the Future Land Use Element of the Comprehensive Plan, the property development regulations of the RE district shall apply.

2. **Single-family development in multi-family districts.** Notwithstanding the requirements of Table 6.5-1, the property development regulations for single-family development in the RM and RH districts shall be as specified in Table 6.5-1 for the RS district.

3. **Townhouse development.** Notwithstanding the requirements of Table 6.5-1, the property development regulations, except for density, for townhouses in all districts where they are authorized shall be as specified in Sec. 6.4.D, Supplementary Use Standards—Townhouse. Density shall be determined according to Table 6.5-1.

4. **Special density programs.** Special density programs for affordable housing are available through the use of VDBP, TDR, TND, and Westgate CRA-O. Site development standards for affordable housing may be in accordance with 6.5.L of this code.

C. Lot dimensions.

1. **Lot size.** Lot size refers to the total horizontal area included within the lot lines, expressed in acres or square feet. The minimum lot size for each district is provided in Table 6.5-1, except as otherwise provided in this subsection, Sec. 6.4.D, Supplementary Use Standards), or elsewhere in this Code.

   a. Special Lot Size Requirements in the **AR and CRS districts.**

(1) **Minimum lot size in RR20 of the Future Land Use Element of the Comprehensive Plan.** Notwithstanding the standards of the property development regulations schedule, the minimum lot size in the AR and CRS districts when located in an area with an RR20 land use designation in the Future Land Use Element of the Comprehensive Plan shall be twenty (20) acres.

(2) **Antiquated subdivisions.** The following standards shall pertain to the further division and recombination of lots in areas designated Rural Residential in the Future Land Use Element of the Comprehensive Plan.

(a) Parcels within antiquated subdivisions shall not be further divided to form additional parcels unless each parcel created is ten (10) or more acres.

(b) Parcels cannot be reduced in size unless the purpose is to enlarge other parcels in the subdivision. The overall number of units of the reconfigured lots shall not exceed the original number of units.

(c) Parcels can be enlarged in size by combining with land area not included within the boundaries of the subdivision. The number of dwelling units allowed for the reconfigured area shall not exceed the original number of units.

(d) Adjacent lots of record under common ownership shall be required to combine to satisfy density requirements if such combination acts to reduce the nonconformity.

b. **Maximum lot size in CN and CLO districts.** No lot shall be larger than three (3) acres in the CN district, and ten (10) acres in the CLO district.

2. **Lot width.** Lot width refers to the horizontal distance, in feet, between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines. The minimum lot width for each district shall be as provided in Table 6.5-1, except as otherwise provided in Sec. 6.4.D, Supplementary Use Standards, or elsewhere in this Code.

3. **Lot frontage.** Lot frontage refers to the length of the front lot line. The minimum lot frontage requirement shall be identical to the minimum lot width requirement as specified in Table 6.5-1, except that on curving streets or cul-de-sacs, the required lot frontage for lots contiguous to and between the points of curvature (P.C.) of said streets may be reduced by forty (40) percent, provided that the centerline radius of the contiguous street is one hundred twenty-five (125) feet or less.

4. **Lot depth.** Lot depth refers to the horizontal length, in feet, of a straight line drawn from the midpoint of the front lot line to the midpoint of the rear lot line. The minimum lot depth for each district shall be as provided in Sec. 6.0..A, except as otherwise provided in Sec. 6.4.D, Supplementary Use Standards, or elsewhere in this Code.

[Ord. No. 95-24]

D. Density. Density refers to the number of dwelling units for each acre of land. The minimum and maximum densities permitted in the RE through RH districts shall be as provided in Table 6.5-1, except as otherwise provided in this subsection, Sec. 6.4.D, Supplementary Use Standards, or elsewhere in this Code.

1. **Calculation of density.** Density shall be calculated by dividing the number of dwelling units on a lot by the lot area (in acres). When the result is other than a whole number, it shall be rounded down to the nearest hundredths.

2. **RT district in LR1**. Notwithstanding the requirements above, RT districts located in an area with a LR1 land use designation in the Future Land Use Element of the Comprehensive Plan, shall not have a minimum density requirement and the maximum density allowed shall be one (1) unit for each acre.

3. **Maximum density**. Densities in excess of the maximum permitted by Table 6.5-1 shall be permitted in the RM or RH districts only if one (1) of the following conditions apply.

   a. The development is consistent with the County's Voluntary Density Bonus Program designed to provide affordable housing.

   b. The additional dwelling units are equal to the equivalent transfer of development rights (TDR) units pursuant to Sec. 6.10, (Transfer of Development Rights).

   c. The additional dwelling units are permitted by the provisions of an Overlay District pursuant to Sec. 6.7 (Overlay District Regulations).

   d. The additional dwelling units are located in a Planned Development in accordance with the Planned Development provisions of this code.

[Ord. No. 93-4]

E. Floor area ratio (FAR). Floor area ratio refers to the gross floor area of all structures on a site divided by the gross site area, expressed as a decimal. For the purposes of the FAR calculation, both gross floor area and site area are expressed in square feet. The maximum FAR permitted in each district shall be as provided in Table 6.5-1, except as otherwise provided in this subsection, Sec. 6.4.D (Supplementary Use Standards and Definitions), or elsewhere in this Code.

F. Building coverage. Building coverage refers to that portion of the area of a lot, expressed as a percentage, occupied by all structures that are roofed or otherwise covered and that extend more than three (3) feet above the ground surface level. The maximum building coverage for each district shall be as provided in Table 6.5-1, except as otherwise provided in this subsection, Sec. 6.4.D (Supplementary use standards), or elsewhere in this Code. (All principal residential, commercial or industrial uses shall have a structure on the lot that is in compliance with the Building Code and other applicable codes.)

G. Setbacks. Setback refers to that part of a lot extending open and unobstructed from the ground to the sky, except for permitted obstructions, along the length of a lot line, and from the lot line, or applicable base building line, to a depth set forth in the property development regulations of the district in which the lot is located.

1. **Front setback**. The front setback refers to the setback extending along the full length of the front lot line. The minimum front setback required in each district shall be as provided in Table 6.5-1, except as otherwise provided in this subsection, Sec. 6.4.D (Supplementary Use Standards and Definitions), or elsewhere in this Code. Said setback shall be measured from the base building line as established pursuant to Sec. 6.5.G.5.

2. **Interior side setback**. The interior side setback refers to the setback extending along an interior side lot line between the front and rear setbacks. The minimum interior side setback required in each district

shall be as provided in Table 6.5-1, except as otherwise provided in this subsection, Sec. 6.4.D (Supplementary Use Standards and Definitions), or elsewhere in this Code.

a. **Accessory structures**. An accessory or subordinate structure (except guest cottages, accessory apartments, or structures over ten (10) feet in height) may be constructed in any residential district (except AR and CRS), a distance of five (5) feet from the side interior property lines provided it is not within any established easement, and that there is adherence to the side corner yard setback standards. The structure shall not be permitted to occupy more than twenty five (25) percent of the distance between property lines. All structures used as dwellings shall meet the required setbacks of the principal use.

b. **Accessory structures for Townhouses and Zero lot line homes.** Setbacks for accessory structures for Townhouses and Zero lot line homes are described in Sec. 6.4.D. Supplementary Use Standards for Townhouses and Zero lot line homes.

c. **RM and RH interior side setbacks or separations**. Building separations shall correspond to the side setback regulations. Buildings over thirty-five (35) foot in height shall be in accordance with Sec. 6.5.I. (Building Height Regulations).

3. **Street side setback**. The street side setback refers to the setback extending along a street side lot line between the front and rear setbacks. The minimum street side setback required in each district shall be as provided in Table 6.5-1, except as otherwise provided in this subsection, Sec. 6.4.D (Supplementary use standards), or elsewhere in this Code. Said setback shall be measured from the base building line as established pursuant to Sec. 6.5.G.5.

4. **Rear setback**. The rear setback refers to the setback extending along the full length of the rear lot line. The minimum rear setback required in each district shall be as provided in Table 6.5-1, except as otherwise provided in this subsection, Sec. 6.4.D (Supplementary use standards), or elsewhere in this Code.

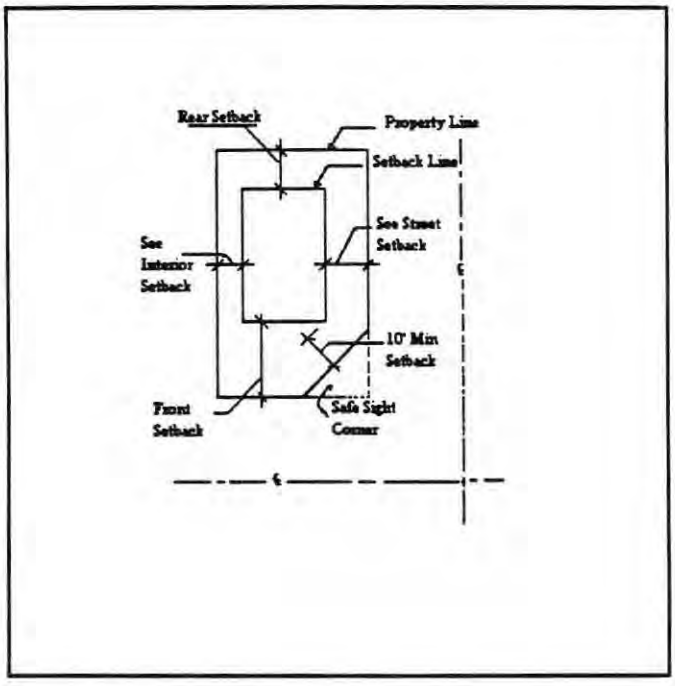
a. **Alleys**. Whenever a lot in either the commercial or industrial districts is contiguous to an alley, one-half (½) of the alley width may be considered as a portion of the required rear yard, but in no case shall the rear yard be reduced to less than five (5) feet.

b. **Railroad tracks**. Industrial uses that abut railroad trackage may reduce the rear yard setback to zero (0) feet along such trackage.

c. **Accessory residential structures**. An accessory or subordinate structure (except guest cottages, accessory apartments, or structures not over ten (10) feet in height), may be constructed in any residential district (except AR and CRS), a distance of five (5) feet from the rear property lines provided it is not within any established easement, and that there is adherence to the side corner yard setback standards. The structure shall not be permitted to occupy more than twenty five (25) percent of the distance between property lines. Permitted accessory structures include satellite dishes, utility sheds, or detached garages. All structures used as dwellings shall meet the required setbacks of the principal use.

d. **Accessory structures for Townhouses and Zero lot line homes.** Setbacks for accessory structures for Townhouses and Zero lot line homes are described in Sec. 6.4.D. Supplementary Use Standards for Townhouses and Zero lot line homes.

5. **Setbacks from a safe sight corner.** Setbacks from a safe sight corner for a residential lot shall be a minimum of ten (10) feet. The setback shall be measured perpendicular from the interior lot line of the safe sight triangle.



6. **Setbacks abutting passive open space.** The rear or interior side setbacks for structures abutting an open space may be reduced by a maximum of twenty five (25%) percent of the standard setback distance provided the following conditions are met:

   a. The entire length of the structure shall be adjacent to open space (lake, canal, preserve area, golf course, etc.) with a minimum width of fifty (50) feet; and,

   b. All construction and earthwork shall be completed within the boundaries of the owners' lot.

7. **Base building line.** The base building line for any lot shall be established to provide visual buffer along streets as follows:

   a. **Collector and Arterial Streets.** The base building line for any lot abutting a collector or arterial street shall be forty (40) feet beyond the existing right-of-way. Provided, however, that the County Engineer may waive this requirement in whole or in part and establish the base building line at a

lesser distance from the existing right-of-way where said distance is deemed adequate to provide the visual buffer.

b. **Local streets.** The base building line for any lot abutting a local street shall be as follows:

(1) Along deeded or dedicated rights-of-way, the base building line shall be thirty (30) feet from the centerline of the right-of-way unless administratively waived by the County Engineer, or shall be the existing right-of-way line, which ever is greater.

(2) Along streets established as recorded easements, the base building line shall be thirty (30) feet from the center of the established easement unless administratively waived by the County Engineer. If the base building line requirement is waived on an easement road, setbacks shall be measured from the inside easement line.

(3) The base building line for lots within subdivisions platted after February 5, 1973 shall be the right-of-way line of the street as shown on the plat.

c. **Permitted encroachments.** Pursuant to the approval of the County Engineer, removable non-habitable structures may be placed between the existing right-of-way line and the base building line. Approval of such structures shall be subject to a removal agreement and may include signs, fences, and auto displays. The area must be landscaped in accordance with Sec. 7.3 (Landscaping and buffering).

[Ord. No. 93-4] [Ord. No. 95-24]

H. **Building height.** Building height refers to the vertical distance, in feet, from finished grade to the highest point of the roof for flat roofs; to the deck line for mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs.

1. **General limitation.** Except as otherwise provided in this section or this Code, buildings in all districts shall be limited to a maximum height of thirty-five (35) feet.

2. **Accessory agricultural structures.** Structures accessory to a bona fide agricultural use in the AGR, AP, SA and AR districts may exceed thirty-five (35) feet up to a maximum of sixty (60) feet, provided that an additional three (3) foot setback is provided in addition to all required setbacks for each ten (10) feet in height or fraction thereof above thirty-five (35) feet.

3. **Multi-family and nonresidential districts.** In the RM, RH, CHO, CG, IL and IG districts, structures may exceed thirty-five (35) feet in height, provided that the following requirements are met.

a. **Increased setbacks.** An additional one (1) foot setback shall be provided in addition to all required setbacks for each one (1) foot in height or fraction thereof above thirty-five (35) feet.

b. **Increased setbacks adjacent to single-family.** Along all interior side and rear lot lines adjacent to an existing single-family dwelling or to undeveloped land in a single-family residential district, an additional two (2) foot setback shall be provided in addition to the required setback for each one (1) foot in height above thirty five (35) feet.

c. **Limitation in multi-family districts**. In the RM and RH districts, buildings or structures in excess of one hundred (100) feet in height shall be permitted only with approval of a Class B conditional use permit.

4. **Exceptions to height regulations**. The height regulations of this section shall not apply to the following:

a. Church spires;
b. Belfries;
c. Monuments;
d. Tanks;
e. Water towers;
f. Fire towers;
g. Stage towers or scenery lofts;
h. Cooling towers;
i. Ornamental towers and spires;
j. Chimneys;
k. Elevator bulkheads;
l. Smoke stacks;
m. Oil derricks;
n. Conveyors;
o. Flag poles; (subject to Sec. 7.14.T.3);
p. Aircraft control towers;
q. Aircraft navigation aids;
r. Accessory radio towers (subject to Sec. 6.A.11);
s. Amateur radio/TV antennas (subject to Sec. 6.A.12);
t. Commercial communication towers (subject to Sec. 6.4.D); and
u. Parapet screening mechanical equipment.

[Ord. No. 93-4] [Ord. No. 94-23]

I. **Exceptions to property development regulations**. The following structures or objects of natural growth shall be permitted within required yard setbacks, provided that the standards of Sec. 7.3 (Safe distance triangles) are met.

a. Arbors and trellises, provided there is a minimum three (3) foot setback from property line.
b. Permanent or retractable awnings or canopies projecting from a building wall over a required yard setback not more than two and one-half (2½) feet, and having no supports other than provided by the wall or its integral parts.
c. Bay windows.
d. Chimneys projecting not more than three (3) feet into the required yard setback.
e. Clothes poles or clothes lines in rear yard setbacks of residential districts.
f. Driveways subject to other specific provisions of this ordinance related directly thereto.
g. Fire escapes or staircases, the riser of which shall be at least fifty (50) percent open, provided that the vertical projection downward onto a required yard setback shall not project more than three (3) feet into, and shall not exceed ten (10) percent of, the area of the required yard setback.
h. Flagpoles having only one structural ground member. (subject to Sec. 7.14.I.3).
i. Fountains.

j. Heating, ventilation and air conditioning units (including compressors and condensers) for single-family or duplex dwellings, provided the exhaust air from such units is directed vertically or away from the adjacent property line.
k. Mailboxes.
l. Open terraces, including walkways, ground level wooden decks and natural plant landscaping.
m. Open, uncovered stoops.
n. Recreational equipment in the rear yard setback in residential districts.
o. Roof overhangs projecting into the required setback area a maximum of two and one-half (2½) feet.
p. Sculpture or other similar objects of art.
q. Signs, subject to the provisions of Sec. 7.14 (Signage).
r. Vehicular parking areas, unless otherwise specifically prohibited by applicable sections of this Code.
s. Walls and fences, subject to Sec. 6.A.2 (Fences, walls, hedges and utility poles).
t. Trees, shrubbery or other objects of natural growth.
u. Wells.
v. Utility transmission lines and associated structures, such as poles.
w. Basketball goals, provided there is a minimum three (3) feet setback from the rear and side interior property lines and a minimum fifteen (15) feet setback from front and side street property lines.
x. Light poles having only one (1) structural ground member.

[Ord. No. 93-4] [Ord. No. 94-23] [Ord. No. 95-8]

J. District specific regulations. Additional property development regulations shall apply to the following districts.

1. **AGR Use Limitations.** Pursuant to the 1989 Future Land Use Element of the Comprehensive Plan, only agricultural uses or residential development as defined in the Plan shall be allowed until the Agricultural Reserve Study is adopted.

2. **Additional AR and CRS district regulations for Accessory structures.**

a. **Conforming lots in AR and CRS districts** . On conforming lots in the AR and CRS districts, accessory structures such as pens for the keeping of livestock, shade houses and containerized plants may be located within the required minimum side or rear setbacks, provided that such structures are not located within twenty-five (25) feet of any side or rear property line.

b. **Nonconforming lots in AR and CRS districts.** On a single nonconforming lot or parcel of land in the AR or CRS district, an accessory structure may be constructed a distance of fifteen (15) feet from the rear property line or at least five (5) feet from any established easement in the rear, whichever is the greater distance, and fifteen (15) feet from the interior side property line, provided that the accessory structure is not located within the required front yard and street side yard setbacks. Except as provided elsewhere in this Code, activities accessory to the principal use such as pens for the keeping of livestock, shade houses and containerized plants shall be located a minimum of ten (10) feet from any side or rear property line.

c. **Storage containers in the AR district.** Storage containers or structures, accessory to a bona fide agricultural use are permitted in the AR district provided the container meets Building Code requirements.

3. **Additional residential district regulations.** Residential developments that are required to be approved by the Development Review Committee shall be subject to linked open space regulations as set forth in Sec. 6.8, Planned Development Districts.

4. **Additional SA district regulations.** The following additional property development regulations shall apply to the SA districts.

   a. All uses in SA shall be located on a roadway classified as at least an arterial or collector as determined by the County Engineer, unless other provisions are specified for a particular use in the Use Regulations of Sec. 6.4.

   b. The required buffer or setback area for the SA use may be used for bona fide agricultural uses provided all landscaping and other applicable regulations are met.

   c. A buffer shall be landscaped pursuant to Zoning Code Sec. 7.3. Compatibility Landscape Buffer Strips, or to the applicable regulations of the district or use, whichever is the most restrictive.

5. **Additional CN district regulations.** The following additional property development regulations shall apply to the CN district.

   a. **Architectural character.** Building design of uses allowed in the CN district shall conform to and be compatible with the general architectural character of the neighborhood in which they will be established, pursuant to the requirements of Sec. 6.6 (Compatibility standards).

   b. **Enclosed uses.** All uses, other than incidental storage of merchandise, (incidental storage shall not be long term inventory or stockpiles of merchandise) shall be operated entirely within enclosed buildings, with the following exceptions:

      (1) Air curtain incinerator, temporary;
      (2) Communication tower, commercial;
      (3) Electrical power facility;
      (4) Park, passive;
      (5) Recreation facility, accessory;
      (6) Recycling center;
      (7) Recycling drop-off station;
      (8) Solid waste transfer station;
      (9) Utility, minor; and
      (10) Water or wastewater plant.

   c. **Operating hours.** No commercial use shall commence business activities (including delivery and stocking operations) prior to 6:00 AM nor continue activities later than 11:00 PM, except as otherwise provided in this Code.

6. **Additional regulations in all commercial districts.** The following additional property development regulation shall apply to all commercially zoned districts: All commercial uses adjacent to residential zoned property shall not commence before 6:00 a.m. daily.

7. **Additional CLO district regulations.** The following additional property development regulations shall apply to the CLO district.

   a. **Architectural character.** Building design of uses allowed in the CLO district shall conform to and be compatible with the general architectural character of the neighborhood in which they will be established, pursuant to the requirements of Sec. 6.6 (Compatibility standards).

   b. **Enclosed uses.** All uses shall be operated entirely within enclosed buildings, with the following exceptions:

      (1) Air curtain incinerator, temporary;
      (2) Communication tower, commercial;
      (3) Electrical power facility;
      (4) Park, passive;
      (5) Recreation facility, accessory;
      (6) Recycling drop-off station;
      (7) Solid waste transfer station;
      (8) Utility, minor; and
      (9) Water or wastewater plant.

8. **Additional CC district regulations.** The following additional property development regulations shall apply to the CC district.

   a. **Floor area.** The maximum floor area permitted on any lot in the CC district shall be thirty thousand (30,000) square feet of gross floor area, unless approved as a Class A conditional use.

   b. **Enclosed uses.** All uses, other than incidental storage of merchandise, shall be operated entirely within enclosed buildings, with the following exceptions:

      (1) Air curtain incinerator, temporary;
      (2) Amusements, temporary;
      (3) Assembly, nonprofit;
      (4) Automotive service station;
      (5) Communication tower, commercial;
      (6) Electrical power facility;
      (7) Entertainment, outdoor;
      (8) Golf course;
      (9) Greenhouse or nursery, retail;
      (10) Park, passive;
      (11) Park, public;
      (12) Parking lot, commercial;
      (13) Recreation facility, accessory;
      (14) Recycling center;
      (15) Recycling collection bin;
      (16) Recycling drop-off station;
      (17) Retail sales, mobile or temporary;
      (18) Solid waste transfer station;

(19) Stand for sale of agricultural products;
(20) Utility, minor;
(21) Vehicle sales or rental; and
(22) Water or wastewater plant.

c. **Operating hours**. No outdoor commercial use shall commence business activities (including delivery and stocking operations) prior to 6:00 AM nor continue outdoor activities later than 11:00 PM, except as otherwise provided in this Code.

9. **Additional IL and IG district regulations**. The following additional property development regulations shall apply to the IL and IG districts.

a. **Outdoor activities**. Outdoor storage or outdoor industrial operations shall be completely screened from view with a combination of fencing and vegetation to a height of six (6) feet.

[Ord. No. 93-4]

K. Easement encroachment.

1. **Purpose**. This section is intended to establish a means by which construction and/or landscaping which physically encroach, but are not incompatible with the use for which a utility or drainage easement was established, may be permitted.

2. **Prohibition**. No construction or landscape installation shall occur within any public or quasi-public drainage or utility easement where such construction or landscaping is inconsistent with the use for which the easement was established, except in strict accordance with the provisions of this section.

No portion of any habitable structure, nor any structure that is not easily removable shall be permitted to encroach an easement.

3. **Incompatible uses**. If the terms of the easement, or the statute, law, ordinance, rule, regulation, or approval pursuant to which the easement was established prohibits or excludes the use, either expressly or by implication, such use shall be considered incompatible for purposes of this section.

The determination of whether a use is incompatible with the use for which an easement was established shall be made by the appropriate regulating agency in accordance with the standards of this section.

4. **Application process for encroachment into utility easements**.

a. If a building permit application includes construction in any utility easement, the applicant shall obtain and provide to PZB the consent of all easement holders and beneficiaries. The consent shall be specific to the proposed construction. PZB shall require that the consent be in or on a form established by PZ&B. The consent shall be required prior to the issuance of a building permit. It shall be the responsibility of the applicant to obtain all necessary approvals. The PBC Water Utilities Department shall have the authority to effect a consent for utility easements held by PBC or for which PBC is the beneficiary based upon the criteria set forth in this section titled "Evaluation criteria for drainage easements."

b. PZB shall also require that an executed removal and indemnification declaration (with the necessary consents) be recorded at the applicant's expense, or be submitted to PZB for recording at applicant's expense, prior to the issuance of the building permit. Said removal and indemnification declaration shall inure to the benefit of the easement holders and beneficiaries.

Said declaration shall provide that all direct and indirect costs related to removal shall be borne by the property owner, its heirs, successors, assignees, and grantees; that the aforestated person(s) shall indemnify and hold the County, its officers, employees , contractors, and agents harmless against any and all claims and liabilities of whatever nature, (including personal injury and wrongful death) arising from any approval granted hereunder or the construction or installation approved hereunder. The removal declaration shall inure to the benefit of the easement holders and beneficiaries. It shall contain such other terms and covenants as PZB or the County Attorney reasonably deem appropriate.

c. Whenever construction is proposed within the overlap of a utility easement and a drainage easement, compliance with this section shall not be construed to relieve the applicant from obtaining any required consents and approvals, if applicable, for encroaching into drainage easements.

d. Persons desiring to landscape in utility easements need not obtain a permit pursuant to this section. If required by the easement holders or beneficiaries, the consent for landscaping in utility easements shall be obtained prior to planting. The consent of the PBC Water Utilities Department shall be required for any utility easements held by or to which the PBC Water Utilities Department is the beneficiary.

5. Application process for encroaching into drainage easements.

a. When a permit is required for construction or landscaping within a drainage easement, the applicant shall apply to the DEPW for approval of construction or landscaping.

b. The approval of the DEPW for any such construction or landscaping shall be prior to, and a condition precedent to, the issuance of any building permit.

c. The application shall be in or on a form established by the DEPW. The application shall include a copy of the recorded deed to the parcel on which the easement is located; the document(s) creating the easements; a certified sketch of survey of the easement; a sketch or plans showing the proposed construction or landscaping in relation to the location of existing drainage improvements in the easement; and such other documentation as the DEPW reasonably deems appropriate.

6. Issuance of approval on drainage easements.

a. The DEPW may deny, approve, or approve with conditions the construction or landscaping in drainage easements.

b. No approval shall be given before the DEPW has received specific written consent from all easement holders, easement beneficiaries, and governmental entities or agencies having jurisdiction of the drainage easement. The DEPW is hereby authorized to effect consent on behalf of the County when the County is the easement holder or beneficiary of drainage easements based upon subsection

6.5.H.7 (Evaluation criteria for drainage easements) of this section. The DEPW may require that consent be in or on a form established by the DEPW. It shall be the responsibility of the applicant to obtain all necessary approvals.

c. The DEPW shall also have executed in proper form, and shall cause to be recorded against the applicant's land involved, a removal and indemnification declaration (with the necessary consents) on a form approved by the County Attorney's Office. Said declaration shall provide that all direct and indirect costs related to removal shall be borne by the property owner, its heirs, successors, assignees, and grantees; that the aforestated person(s) shall indemnify and hold the County, its officers, employees, contractors, and agents harmless against any and all claims and liabilities of whatever nature (including personal injury and wrongful death) arising from any approval granted hereunder or the construction or installation approved hereunder. The removal declaration shall inure to the benefit of the easement holders and beneficiaries. It shall contain such other terms and covenants as the DEPW or the County Attorney deems appropriate. Proof of the recording of the document shall be furnished. In the case of any construction requiring a building permit, proof of recording shall be furnished to the Building Division or be submitted to PZB for recording at applicant's expense prior to the issuance of the building permit.

7. Evaluation criteria for construction or landscaping within utility or drainage easements.

a. The following items shall be considered in determining whether construction in an easement should be approved:

(1) The types of uses to which the easement may be put;
(2) The nature of the construction or landscaping;
(3) The permanency of the construction or landscaping;
(4) The anticipated cost or difficulty of removing the construction or landscaping;
(5) The current use of the easement and the location of all existing structures and plants;
(6) The impact the construction or plants may have on the current or future use or uses of the easement; and
(7) The mitigating effects of any conditions which may be imposed.

b. The burden shall be on the applicant to affirmatively demonstrate that the proposed construction or landscaping is not or will not become incompatible with the use for which the easement was established, or impair the rights of the easement holders and beneficiaries.

8. Fee. To offset the cost of administering this section, a fee shall be charged as established by the BCC by resolution, or otherwise.

9. All other approvals required.

a. All other government permits, approvals, or consents necessary for the construction or landscaping shall be obtained prior to commencement of any construction or landscaping.

b. Nothing herein shall be construed as effecting any right to construct or landscape except to the limited and strict extent of any approval granted hereunder. An approval hereunder is for the limited purpose of complying with this section.

10. **Duties of departments.** The applicant is responsible to provide correct information, except as specifically set forth herein, no County official, employee, or agent shall have the duty of (1) reviewing permit applications submitted pursuant to this section, any other ordinance, rule, or regulation, (2) searching the Official Records of the Clerk of the Circuit Court in and for PBC, or (3) any other investigation to determine: (a) whether a permit application or request for County approval is inconsistent with the use for which an easement was established, (b) whether an easement exists in the area within which a permit for construction/development is sought or (c) whether any other government or private approvals are required for construction or development for which the permit is sought. However, PZB, DEPW or any other department, official employee, or agent may undertake an investigation, search, or inquiry to determine the aforestated.

11. **Deviation.** If construction or landscaping is materially different than that which is approved by PBC Water Utilities Department, DEPW or PZB, then the approval given shall be of no force and effect, unless such deviation is approved by the department having jurisdiction pursuant to this section. **[Ord. No. 93-4]**

L. Flexible Property Development Regulations for Density Bonus Program Development.

1. **Purpose and Intent.** The purpose and intent of this section is to provide flexibility from traditional property development regulations in order to provide greater opportunity for cost effective development for housing approved in conjunction with density bonus programs. The regulations represent the minimum regulations acceptable without compromising minimum health and safety standards.

2. **Applicability.** The provisions of this section may apply to all proposed residential development within unincorporated Palm Beach County that propose to construct affordable housing, as defined explicitly in Article 3, pursuant to Sec. 6.9, Voluntary Density Bonus Program, or Sec. 6.7.B, Westgate/Belvedere Homes Overlay District.

3. **Exceptions.** Flexible Regulations permitted in Planned Development Districts, by DRC or administrative deviation in this Code, shall not be used in conjunction with this Sec. (6.5.L., Flexible Property Development Regulations for Density Bonus Program Development).

4. **Regulating Plan.** All developments planned in accordance with this section shall submit a regulating plan consisting of a comprehensive graphic and written description of the function and development of the project. The regulating plan shall include the requirements listed below and the requirements of the individual district:

   a. **Flexible regulations.** The applicant may request to deviate from property development regulations as described below. These regulations may be modified as part of the zoning amendment process or DRC review, as set forth in this Code, subject to the following requirements:
      (1) **Justification report.** A proposed modification of property development regulations shall be justified by the applicant in a written report submitted with the development application which shall include, but not be limited to:
         (a) The regulations which are proposed to be modified;
         (b) The amount of the requested modification;
         (c) The areas within the development which these modifications shall occur; and,

(d) Graphic representations (site plans, sections, elevations, perspectives, etc.) showing how the modifications will meet the intent of the district and the density bonus program in respect to open space, privacy, maintenance, and public health, safety and welfare.

(2) **Review.** Flexible regulations are reviewed by the applicable County agencies who provide a recommendation of approval, approval with amendments, or denial.

(3) **Limited use of flexible regulations.** Flexible property development regulations are not intended to take the place of variance requests normally reviewed by the Board of Adjustment. Flexible regulations shall only be granted at the time of approval of the entire project or entire land use zone and shall not be granted on a lot by lot basis.

[Ord. No. 95-8]

M. Property Development Regulations. Housing, constructed in accordance with a density bonus program described in the applicability section above, may develop in accordance with the traditional property development regulations found in Table 6.5-1, Sec. 6.4.D; supplementary use standards for zero lot line homes and townhouses or the provisions described herein.

1. **Minimum lot area and dimensions.** The applicant may deviate from minimum lot area and dimensions of the zoning district for all housing, except zero lot line and townhomes, found in Table 6.5-1 by the percentage reductions described in Table 6.5-2 below.

2. **Exceptions to zero lot line minimum lot dimensions.** The minimum lot width or lot depth requirement for zero lot line development may be reduced by five (5) feet if the following criteria are satisfied:

   a. The minimum lot size remains 4,500 square feet.

   b. A minimum of twenty (20) percent of the dwelling units are covenant as affordable housing in accordance with Sec. 6.9, Voluntary Density Bonus.

   c. A varied streetscape is provided through, but not limited to:

      (1) Staggering of front yard setbacks to create visual open space along the street.
      (2) Variation of architectural treatment.

   d. The block length does not exceed eight hundred (800) feet in length and the number and location of driveway access points to the street is approved by the County Engineer.

3. **Maximum building intensity and building location standards.** The applicant may deviate from the Maximum lot coverage, maximum floor area ratio and minimum building setbacks and separations of the zoning district for all housing, except zero lot line and townhomes, found in table 6.5-1, by a maximum percentage reduction of 20% except for the front yard setback in the RS, RM and RH district which may be reduce by a maximum of 40%.

4. **Building height.** Building height limitations shall be in accordance with Sec. 6.5.I (Building Height Regulations).

Table 6.5-2
Permitted Lot Area and Dimensions Deviations

Zoning District	Maximum Percentage Reduction
AR	40%
CRS	40%
RE	50%
RT	50%
RTS	50%
RTU	40%
RS	30%
RM	*
RH	*

Note to Table 6.5-2: Lot sizes for the RM and RH districts are governed by the density, including bonus density, indicated by the Comprehensive Plan, and compliance with property development regulations and design standards including, but not limited to: building setbacks, parking requirements, landscaping requirements, and building coverage in the RM and RH Districts. Consistency with the Comprehensive Plan dictates that proposed site plans and subdivisions are governed by the permitted density of the applicable land use category. A lot size which achieves this consistency, and complies with all relevant property development regulations and design standards, is therefore, an acceptable minimum lot size. **[Ord. No. 95-8]**

N. **Minimum recreation requirements.**

1. **Minimum recreation area.** A minimum of 110 square feet of open recreation area shall be provided per capita. Adequate provisions shall be made for recreation areas to accommodate the neighborhood and community park level recreational needs of the residents of the development. The recreation areas shall consist of a developed recreation parcel and include recreational facilities of a type consistent with the needs of the residents. The recreation parcel shall be located so as to provide convenient pedestrian access for the residents of the development. The residents of the development, the owner of the land or a property owner's association, and their successors in interest, shall be responsible for the perpetual maintenance of the recreation area. The location of the recreational tract(s) shall be determined at the time of final site plan/subdivision plan submission.

   In the event of a phased development each subsequent site plan shall show how minimum recreation requirements are being satisfied. The minimum dollar amount to be spent on recreation facilities shall be determined based on the Community Park Impact Fee Schedule in use at the time of the site plan

submission. The requirements contained in this section may be waived if adequate guarantee is provided prior to platting that the intent of this subsection's recreation requirement and this section's affordable housing provisions are met; and,

This land area recreation requirement, described above, may be waived if the applicant provides an equivalent cash value for the on-site recreational requirement in accordance with Sec. 17.1 of this code, and;

a. The proposed development is single family and located within 1500 feet of an existing County owned neighborhood, community, district or regional park or community school and has continuous pedestrian access thereto that does not require crossing a street that has greater than a 60 foot right-of-way.

b. The proposed development is single family and located within 1500 feet of a municipal park, with pedestrian access that does not require crossing a street greater than a sixty foot right-of-way, and the applicant enters into an agreement, subject to County review and approval, with the municipality for use of such park by the residents of the proposed development.

If the single family housing units defined as very low/low comprise no more than twenty (20) percent of the development, are dispersed throughout the development, and the proposed recreation is available for the use of all residents of the development, the on site square footage recreational requirements allocated to the number of affordable housing units may be reduced by fifty (50) percent.

[Ord. No. 95-8]

O. **Parking requirements**. Minimum parking standards shall be in accordance with Sec. 7.2 of this code. **[Ord. No. 95-8]**

P. **Accessory uses and residential structures**. Accessory uses and structures shall be permitted in accordance with Sec. 6.6. An accessory or subordinate structure (except guest cottages, accessory apartments or structures of ten (10) feet in height) may be constructed a distance of five (5) feet from the rear or side interior property line provided there is adherence to the side corner yard setback standards and there is not encroachment into an easement or buffer. **[Ord. No. 95-8]**

Q. **Minimum dwelling unit size**. The minimum size of each dwelling unit shall be in accordance with federal, state and local building codes. **[Ord. No. 95-8]**

R. **Minimum landscape and buffer requirements**.The development shall be subject to the minimum landscaping and buffering requirements of Sec. 7.3 of this code. Except for those provisions specifically described below. In case of conflict with regulations of this code, the more restrictive shall apply, unless otherwise specifically provided or clearly intended.

1. **Minimum tree planting requirement.** A minimum of one tree shall be planted for each 2000 square feet of gross lot area. The planting of trees is encouraged to be dispersed throughout the lot and planted

on the south and west sides of habitable structures, to promote energy efficiency. To promote energy and water resource efficiency the following landscape techniques are encouraged:

a. Planting of shrubs around the foundation of the structure.
b. Planting of shrubs, and ground covers in accordance with good xeriscape principles.

2. **Minimum buffer requirement.**

a. **Compatibility buffer.** A ten (10) foot perimeter compatibility buffer shall be provided along all property lines adjacent to existing commercial or industrial uses where there is no existing buffer. A six (6) foot high opaque wall or fence and eight (8) foot trees planted forty (40) feet on center shall be installed within the ten (10) foot perimeter compatibility buffer. The wall or fence shall have an opening to allow easy access for pedestrians.

[Ord. No. 95-8]

[Ord. No. 93-4; February 2, 1993] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-8; March 21, 1995] [Ord. No. 95-24; July 11, 1995]

SEC. 6.6 SUPPLEMENTARY REGULATIONS.

A. Accessory uses and structures.

1. **General.** All accessory uses and structures shall be subject to the following regulations.

a. **Accessory uses.** Principal uses listed in the Use Regulations Schedule (Table 6.4-1) are deemed to include accessory uses identified by this Code where such other accessory uses that are necessarily and customarily associated with and are incidental and subordinate to such principal uses. An accessory use shall be subject to the same regulations that apply to the principal use in each district, except as otherwise provided.

b. **Location.** All accessory uses, buildings and structures, except for approved off-site parking, shall be located on the same lot as the principal or main use.

c. **Floor area.** In total, all accessory use shall not exceed thirty (30) percent of the floor area or business receipts of the principal use, or uses.

2. **Fences, walls and hedges.**

a. **Permit required.** Fences and walls enclosing any permitted use, except primary agricultural uses, shall comply with the permit procedures of the Palm Beach County Planning Zoning and Building Department, as amended.

b. **Sight distance maintained.** Fences, walls, hedges or utility poles in proximity to the intersection of accessways or rights-of-way shall conform to the applicable provisions of Sec. 7.3 (Safe distance triangles).

c. **Residential restrictions.** In residential districts, the following restrictions shall apply:

(1) **Fences and walls**. Fences and walls may be erected along or adjacent to a lot line to a height not exceeding six (6) feet in the required side (to the required front setback) and rear yards and not exceeding a height of four (4) feet in the required front yards. The height shall be measured adjacent to the wall from the lowest grade on either side of the wall, fence or hedge. Both sides of any wall or fence shall be properly finished with paint, stucco, or other commonly accepted materials.

(2) **Hedges.** Hedges may be planted and maintained along or adjacent to a lot line to a height not exceeding eight (8) feet in the required side (to the required front setback) and rear yards and not exceeding a height of four (4) feet in the required front yards. The height shall be measured adjacent to the hedge from the lowest grade on either side of the hedge.

(3) **Gateposts and attached light fixtures.** Gateposts and light fixtures in the front yard not exceeding three (3) feet in any horizontal dimension may be erected or constructed in connection with the erection of a wall or fence, said gateposts are not to exceed a maximum height of two (2) feet above the maximum fence height permitted for the wall or fence immediately contiguous to such gateposts.

d. Planned development restrictions. When fences or walls are located along side interior or street side property lines, the fence or wall shall be located along the interior side of the required landscape buffer strip.

(1) **Tennis courts**. Tennis courts enclosed by fences exceeding six (6) feet in height shall be permitted, provided they shall be constructed of material allowing for fifty (50) percent light and fifty (50) percent air circulation, shall not be roofed, and shall be subject to the following minimum setbacks:

Yard	Minimum Setback
Front yard	25 feet
Side yard, interior	7.5 feet
Side yard, street	15 feet
Rear yard	7.5 feet

(2) **Golf courses**. Fences of up to eight (8) feet in height shall be permitted within required setbacks of residential districts for golf courses.

e. Commercial restrictions. Where fences, walls, or hedges are required, they shall have a minimum height of six (6) feet. The height shall be measured adjacent to the wall from the lowest grade on either side of the wall, fence or hedge. Both sides of any wall or fence shall be properly finished with paint, stucco or other commonly accepted materials.

f. Dangerous materials. Walls, fences or similar structures erected in any residential district shall not contain any substance such as broken glass, spikes, nails, barbed wire, or similar materials designed to inflict pain or injury to any person or animal.

3. **Outdoor storage.** Outdoor storage of merchandise in all commercial, industrial and nonresidential districts shall be subject to the following standards, unless the use is specifically regulated in another district or section.

   a. Outdoor storage of merchandise shall be permitted only when incidental to the use located on the premises.

   b. The storage area shall not be located in any of the required setbacks or yards.

   c. The stored merchandise shall be within an area surrounded by walls or buildings, and shall not protrude above the height of the enclosing walls or buildings.

   d. Outdoor storage of material used for road construction when:

      (1) The lot is directly adjacent to the roadway under construction;
      (2) The material is stored for no longer than 90 days unless approved by the Zoning Director for a period not to exceed an additional 90 days;
      (3) The lot meets the requirements of Sec. 7.5, Vegetation Preservation and Protection.

4. **Fuel, gas, or chemical storage tanks.** Fuel, gas or chemical storage tanks accessory to a primary commercial or industrial use which stores fuel, gas or chemicals which is sold to the public (retail) shall be reviewed by the Development Review Committee. To ensure compatibility with surrounding land uses, adequate setbacks, fencing, and screening around the perimeter of the storage tanks shall be required at the time the structure is approved. Fuel, gas or chemical storage tanks that are a primary use shall be subject to regulations of the district.

5. **Dumpsters.** Outdoor collection stations shall be provided for garbage and trash removal when individual collection or indoor storage is not provided. All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters and trash compactors, shall meet the following standards. These provisions shall not apply to litter containers provided for the convenience of pedestrians.

   a. **Access.** Access to indoor or outdoor collection stations shall be such that the removal vehicle need not make unnecessary turning or backing movements.

   b. **Setback.** The minimum setback for dumpsters from property in a residential district or from other residential property lines shall be twenty-five (25) feet.

   c. **Screening.** All dumpsters or receptacles for the storage and disposal of trash or garbage shall be screened by a solid opaque enclosure constructed of brick, concrete, concrete block, or other decorative masonry, or comparable wood or steel, consistent with the architectural character of the development or principal building. The open end of the enclosure shall have an obscure, opaque gate. All exterior sides of such enclosures, except the open end, shall be landscaped with shrub material, a minimum of twenty-four (24) inches in height, spaced twenty-four (24) inches on center at planting, or an alternative acceptable to the Zoning Division.

6. **Multi-family recyclable material storage areas.** Recyclable material collection and storage areas shall be provided on the site of all multi-family developments that include ten (10) or more dwelling units, in accordance with the following standards.

   a. **Exemptions.** Multi-family developments that receive curbside recyclable materials collection service on at least a weekly basis shall be exempt from the standards of this section.

b. **Location**. Recyclable material collection and storage areas shall be located within the building containing the multi-family dwelling units or within or adjacent to the disposable material dumpster area used by residents of the multi-family development.

c. **Access**. Access to recyclable material collection and storage areas shall be designed so as not require unnecessary turning or backing movements by pick-up and removal vehicles.

d. **Setback**. The minimum setback for recyclable material collection and storage areas that are located on the exterior of buildings shall be twenty-five (25) feet from residential districts or residential properties.

e. **Screening**. All recyclable material collection and storage areas that are located on the exterior of buildings shall be screened by a solid opaque enclosure constructed of brick, concrete, concrete block, or other decorative masonry, or comparable wood or steel, consistent with the architectural character of the development or principal building. The open end of the enclosure shall have an obscure, opaque gate. All exterior sides of such enclosures, except the open end, shall be landscaped with twenty-four (24) inch high shrub material spaced twenty-four (24) inches on center at planting, or an alternative acceptable to the Zoning Division.

f. **Storage area**. The following minimum recyclable material storage area standards shall apply to multi-family developments.

Number of Dwelling Units	Minimum Storage (Floor) Area
10 - 30	40 square feet
31 - 99	100 square feet
100 -159	160 square feet
160 -240	240 square feet
over 240	240 square feet, plus one (1) square foot per dwelling unit for each dwelling unit over 240.

g. **Alternative compliance**. Applicants shall be entitled to demonstrate that recyclable material storage space needs can be more effectively met through an Alternative Recyclable Materials Collection and Storage Plan. An Alternative Recyclable Materials Collection and Storage Plan shall be reviewed by the Solid Waste Authority, and, if approved, shall be substituted for a recyclable materials storage and collection plan meeting the express storage area standards of this section.

h. **Review**. Recyclable material storage and collection area plans shall be reviewed by the Development Review Committee pursuant to Sec. 5.6. Information necessary to evaluate proposed plans for compliance with the standards of this section shall be shown on the site plan.

i. **Retrofitting of existing multi-family developments**. The retrofitting of existing multi-family developments to comply with the standards of this section shall be encouraged. As a means of encouraging retrofitting, developers shall be entitled to convert existing off-street parking spaces to accommodate a recyclable material storage area in accordance with the following standards.

(1) **Number of spaces to be converted**. A maximum of one (1) existing off-street parking space may be converted to accommodate each one hundred eighty (180) square feet of recyclable material storage and collection area or fraction thereof that is provided on the exterior of a

building. Conversion of off-street parking spaces to accommodate more recyclable materials collection and storage area than specified in Sec. 6.6 (Storage area) shall be prohibited.

(2) **Automatic waiver**. The conversion of existing off-street parking spaces to accommodate recyclable material storage and collection areas pursuant to the standards of this section shall be permitted by-right, without resort to the Board of Adjustment.

7. **Commercial recyclable material storage area**. Recyclable material collection and storage areas shall be provided on the site of all occupied non-residential buildings or developments in accordance with the following standards.

   a. **Storage Area**. At a minimum, at least one recyclable material collection and storage area with a 10 foot by 10 foot pad, shall be designated on each site plan.
   b. **Location**. All accessory uses, buildings and structures, except for approved off-site parking, shall be located on the same lot as the principal or main use.
   c. **Access**. Access to recyclable material collection and storage areas shall be designed so as not to require unnecessary turning or backing movements by pick-up and removal vehicles.There shall be a fifty (50) foot access area for trucks.
   d. **Setback**. The minimum setback for recyclable material collection and storage areas that are located on the exterior of buildings shall be twenty-five (25) feet from residential districts or residential properties.
   e. **Screening**. All recyclable material collection and storage areas that are located on the exterior of buildings shall be screened by a solid opaque enclosure. The open end of the enclosure shall have an opaque gate. All exterior sides of the enclosure, shall be landscaped with twenty-four (24) inch high shrub material spaced twenty-four (24) inches on center at planting, or an alternative acceptable to the Zoning Division. Recycling enclosures may be connected to or be a section of garbage and trash enclosures.
   f. **Alternative compliance**. Applicants shall be entitled to demonstrate that recyclable material storage space needs can be more effectively met through an Alternative Recyclable Materials Collection and Storage Plan. An Alternative Recyclable Materials Collection and Storage Plan shall be reviewed by the Solid Waste Authority, and, if approved, shall be substituted for standards of this section.
   g. **Review**. Recyclable material storage and collection area plans shall be reviewed by the Development Review Committee pursuant to Sec. 5.6. or administrative site plan amendment pursuant to Sec. 5.6.D.12 as applicable. Information necessary to evaluate proposed plans for compliance with the standards of this section shall be shown on the site plan.
   h. **Retrofitting of existing non-residential developments**. The retrofitting of existing non-residential developments to comply with the standards of this section is permitted at a ratio of one parking space for each recycling material storage and collection area, not to exceed ten (10) percent of the total parking spaces.

8. **Accessory outdoor recreation**. Accessory outdoor recreational facilities are primarily designed and intended for use by occupants and their guests of a residential development or nonresidential development. Accessory outdoor recreational facilities shall be subject to the following supplementary regulations.

   a. **Setbacks**. Active outdoor accessory recreational facilities shall be located a minimum of fifty (50) feet from any property line abutting a residential district. Passive outdoor accessory recreational facilities shall be located a minimum of 25 feet from any property line abutting a residential district.

   b. **Screening**. If deemed necessary to ensure compatibility with surrounding uses the Development Review Committee may require buffer consisting of a 6 foot fence or masonry wall and landscape screen of at least seventy-five (75) percent opacity around an active or passive outdoor accessory recreational facility.

9. Swimming pools and spas.

a. Principal and accessory use.

(1) Principal use. Any swimming pool or spa or screen enclosure owned and operated as a commercial enterprise existing singularly or in combination with other commercial recreation uses on the same property shall be considered as a principal use subject to the property development regulations of the applicable district.

(2) Accessory use. Any swimming pool or spa or screen enclosure operated by a non profit assembly, social, civic organization, residential homeowners association, or resident of a single-family dwelling shall be considered as an accessory use and shall exist in conjunction with the principal use. regulations stated herein. The accessory use shall be located on the same lot of the principal use except if operated by a residential homeowners association. If operated by a residential homeowners association then the accessory use shall be located within the development boundary, as applicable.

b. Setbacks for accessory pools or spas.

(1) Setbacks for Swimming Pools. Setbacks shall be measured to the water's edge:

Setbacks	Front	Side interior	Side corner	Rear
Single family	28 feet	10.5 feet	18 feet	10.5 feet
Zero lot line	13 feet	0 lot line -3 feet Opposite lot line -5 feet	13 feet	5 feet
Townhouse Rowhouse and Quad	13 feet	3 feet	From property line - 5 feet From r.o.w.- 18 feet	5 feet
Other Multi-family Home Owners Assoc., Non-profit assembly, Social, Civic	50 feet	50 feet	50 feet	50 feet

(2) Setbacks for Spas. Spas shall meet the following setbacks:

(a) Front and Side Corner - 25 feet

(b) Side Interior and Rear - 5 feet

(3) Setback Reductions.

(a) General. Swimming pools or spas may be constructed with a three (3) foot rear or side interior setback for single family or zero lot line dwelling units provided the entire rear or side interior property line is adjacent to open space (lake, natural preserve or golf course) a minimum of fifty (50) feet in depth and all construction and earthwork is completed within the owner's lot.

(b) Planned Developments. Setbacks for swimming pools or spas may be reduced in accordance with the flexible regulations in Sec. 6.8.A.8.(f).1 and administrative deviations in Sec. 6.8.A.15.c.

(c) Building coverage. Swimming pools or spas located at finished grade shall not be included in the building coverage calculation unless contained in a building or within a screen enclosure with a solid roof.

(d) **Fencing, screening and access.** Every swimming pool or spa shall be enclosed by a barrier, retaining wall, fence or other structure in accordance with Palm Beach County Swimming Pool and Spa Code, as amended.

(e) **Easement encroachment.** Pools or spas shall not encroach any utility, drainage or lake maintenance easement.

(f) **Swimming Pools and Spas in Common Areas.** The construction of private swimming pools and spas for individual households within a common area is prohibited, unless the swimming pools and spas were legally constructed within a specified development pod prior to April 21, 1995. If any of the existing dwelling units have exiting swimming pools or spas in the common area of a development pod, the remaining dwelling units within the same development pod may construct a swimming pool or spa as shown on the final subdivision plan or final site plan.

If the final subdivision plan or final site plan does not graphically depict the placement of swimming pools or spas in common area, application shall be made to Development Review Committee to amend the final subdivision plan or final site plan to depict the placement of the swimming pool or spa if:

i **Legally permitted.** The applicant demonstrates that existing swimming pools and spas were legally permitted and constructed in common areas;

ii **Joint applicant.** The landowner or homeowner's association must be a joint applicant on the building permit application;

iii **Setbacks.** The structure must comply with all setback requirements measured from the outer boundary of the common area or have a fifteen (15) foot separation between primary structures, whichever is greater.

iv **Private structures.** No private structures are proposed to be erected in a required perimeter landscape area;

v **Open space.** The entire development must continue to meet open space requirements;

vi **Documents.** The homeowners' documents shall be amended to include provisions that allow private use of the common area upon association approval; and

vii **Prohibitions.** Structures will not be permitted in a common area that is designed as a water management tract.

10. Screen Enclosures.

a. **General.** Screen enclosures may be roofed with a screened roof or solid roof. Property development regulations vary based on the type of roof covering.

b. **Screen Enclosures with Screened Roofs.** Screen enclosures with screened roofs shall be subject to the following property development regulations:

(1) **Setbacks for screen enclosures with screen roofs.** Setbacks shall be measured as specified in the chart below:

Setbacks	Front	Side Interior	Side corner	Rear
Single family	25 feet	7.5 feet	15 feet	7.5 feet
Zero lot line				
Zero lot line side	25 feet	0 feet	10 feet	2 feet
Opposite lot line	25 feet	2 feet	10 feet	2 feet
Townhouse, Row house				
Measured from lot boundary	25 feet	0 feet	From lot line - 5 feet From r.o.w. line - 15 feet	0 feet
Measured from inside edge of buffer of PUD or Tract boundary	15 feet	15 feet	15 feet	15 feet
Separation between groups	25 feet	15 feet	N/A	15 feet
Townhouse, Quad				
Measured from lot boundary	0'	0'	From lot line - 0 feet From r.o.w. line - 15 feet	0 feet
Measured from inside edge of buffer of PUD or Tract boundary	15 feet	15 feet	15 feet	15 feet
Separation between groups	25 feet	15 feet	N/A	15 feet
Other Multi-family, Home Owners Association, Non-profit Social, Civic	50 feet	25 feet	25 feet	25 feet

(a) **Measurement of Setbacks.** Setbacks shall be measured from the property line of the dwelling to the closest edge of the screen enclosure.

(2) **Rear and side interior setback reductions.** Screen roof enclosures may be constructed with a zero (0) foot rear setback for single family or zero lot line dwelling units provided the following conditions are met:

i **Open space.** The entire rear or side interior property line is adjacent to open space (lake, natural preserve or golf course) a minimum of 50 feet in depth;

ii **Construction.** All construction and earthwork is completed within the owner's lot;

iii **Maintenance.** All maintenance can be conducted from within the owner's lot; and

iv **Overhang.** Roof eaves or structures shall not overhang the property line or encroach any utility, drainage or lake maintenance easement.

(a) **Setback reductions in Planned Developments.** Setbacks for screen enclosures may be reduced in accordance with the flexible regulations in Sec. 6.8.A.8.(f).1 and administrative deviations in Sec. 6.8.A.15.c.

(b) **Special Provisions for Zero Lot Line Developments.** A minimum five (5) foot high opaque fence or wall shall be provided on the zero side of zero lot line extending from the rear of the structure to the rear edge of the screen enclosure. Such wall shall be masonry or wood. The screen enclosure shall may be attached to the fence or wall.

(c) **Special Setback Provisions for Townhouses.** No setbacks are required from individual property lines of units, if applicable. Setbacks are required to be measured from perimeter property lines of the development pod in compliance with Sec. 6.4.D.95.d. of the ULDC.

In cases where the townhouse and accessory screen enclosure covers 100 percent of the lot, the screen enclosure shall maintain a minimum separation between other screen enclosures or the principal structure of townhouse groups, as specified in the table above.

Separations between two townhouse groups shall be measured by drawing a center line between the two adjacent groups and measuring a minimum distance of 7.5 feet from the centerline between the proposed enclosures to ensure an equidistant separation of a minimum of 15 feet.

(3) **Building coverage.** Screen enclosures with screen roofs shall not be included in the building coverage calculation.

(4) **Maximum Allowable Size.** Screen enclosures shall be permitted to cover a maximum of 30 percent of the total lot area except for townhouses. Screen enclosures for townhouses may cover 100% of the total lot area provided minimum separations between groups are met.

(5) **Height.** The height of the screen enclosure shall not exceed the highest point of the peak of the roof.

(6) **Easement encroachment.** Roof eaves or structures shall not overhang the rear property line or encroach any utility, drainage or lake maintenance easement.

(7) **Screen enclosures within common areas of residential developments.** The construction of private screen enclosures, for use by individual households, is prohibited in common areas, unless screen enclosures were legally constructed within the same development pod prior to April 21, 1995. If any of the existing dwelling units within the development pod have existing screen enclosures in the common area, the remaining dwelling units within the development pod may construct screen enclosures as shown on the final subdivision plan or final site plan.

If the final subdivision plan or final site plan does not graphically depict the placement of screen enclosures in the common area, application shall be made to Development Review Committee to amend the final subdivision plan or final site plan to depict the placement of the screen enclosures, if compliance with criteria set forth in 6.6.A.9.e. (1)-(7) can be demonstrated.

c. **Screen enclosures with solid roofs.**

(1) **Setbacks.** Screen enclosures shall meet the minimum setbacks of the principal use of the lot. Setbacks may be reduced in accordance with the flexible regulations in Sec. 6.8.A.8.(f).1 and administrative deviations in Sec. 6.8.A.15.c.

(2) **Building coverage.** Screen enclosures with solid roofs shall be included in the building coverage calculation.

(3) **Special provisions for Zero Lot Line Developments.** A minimum eight (8) foot minimum height wall shall be provided on the zero lot line extending at least to the rear edge of the enclosure. Such wall shall be of masonry or wood. The screen enclosure shall be attached to the fence or wall.

(4) **Special provisions for townhouse developments.** If the roof of the enclosure is solid, there shall be a minimum eight (8) foot high wall on the shared lot line, extending from the dwelling to the rear edge of the portion of the enclosure that is roofed. The wall shall be fire-rated in accordance with standard building codes. The screen enclosure may be attached to the masonry wall.

(5) **Height**. The height of the screen enclosure with a solid roof shall not exceed the highest point of the peak of the roof.

(6) **Easement encroachment.** Roof eaves or structures shall not overhang the rear property line or encroach any utility, drainage or lake maintenance easement.

(7) **Screen enclosures with solid roofs within common areas of residential developments.** The construction of private screen enclosures, for use by individual households, is prohibited in common areas, unless screen enclosures were legally constructed within the same development pod prior to April 21, 1995. If any of the existing dwelling units within the same development pod have exiting screen enclosures in the common area, the remaining dwelling units within the development pod may construct screen enclosures as shown on the final subdivision plan or final site plan. If the final subdivision plan or final site plan does not graphically depict the placement of screen enclosures in the common area, application shall be made to Development Review Committee to amend the final subdivision plan or final site plan to depict the placement of the screen enclosures, if compliance with criteria set forth in 6.6.A.9.e. (1)-(7) can be demonstrated.

11. **Accessory radio tower**. A radio tower for noncommercial electronic communication purposes may be permitted as an accessory use to a permitted principal school or bona fide agricultural use, subject to the following supplementary regulations.

a. **Height**. The radio tower shall not exceed one hundred (100) feet in height from ground level.

b. **Setbacks**. Setbacks measured from the base of the radio tower to the property line shall equal a distance of not less than twenty (20) percent of the height of the tower. In addition, the radio tower shall be located in such a manner that it will not fall on any power line. **[Ord. No. 94-23]**

12. **Amateur radio, television antennas and satellite dish antennas.**

a. **Purpose and intent**. The purpose and intent of this section is to provide for the safe and effective installation and operation of amateur radio, citizens band radio, and television antenna support structures and the beam antennas installed on those support structures as well as satellite dish antennas. It is also the purpose and intent of this section to provide for a reasonable accommodation of amateur radio communications, in accordance with Parts 95 and 97 of Chapter 1 of Title 47 of the Code of Federal Regulations, while reflecting Palm Beach County's legitimate interest of protecting and promoting the heath, safety, welfare, neighborhood aesthetics, and morals of its citizens. The standards in this section are intended to place reasonable safety and aesthetic precautions on the installation and erection of such antennas and antenna support structures, and to represent the minimum practicable

regulation necessary to protect and promote the health, safety and welfare of the public. The regulations are not, however, intended to unduly restrict or preclude amateur radio communications.

b. **Applicability**. All amateur and citizens band radio and television transmission and receiving antennas, including satellite dish antennas but excluding satellite earth stations, shall be governed by the standards of this section.

c. **Approval of antennas and antenna support structures**. All antenna support structures and the beam antenna installed on those antenna support structures, shall be considered accessory uses, and shall comply with the provisions of this section, and Sec. 5-23 (Airport Zones and Airspace Height Limitations) of the Palm Beach County Code of Laws and Ordinances.

d. **Conditional use**. In addition to the requirements of this section, all antenna support structures and the beam antennas installed on those support structures, extending greater than seventy (70) feet above grade level or fifteen (15) feet above building height, whichever is greater, shall be a Class "B" Conditional use.

e. **Exemptions**.

(1) **Exemption.** All antenna support structures and the beam antennas installed on these support structures that do not extend greater than seventy (70) feet above grade, shall be exempt from conditional use approval.

(2) **Use.** All antenna support structures and the beam antennas installed on these support structures which have been constructed, installed, and are operational as of February 1, 1990 shall be considered legal, nonconforming uses.

(3) **Certification.** All legal nonconforming antenna support structures and the beam antennas installed on these support structures that extend greater than seventy (70) feet above grade level or fifteen (15) feet above building height, whichever is greater, shall acquire written certification from the Zoning Director. Such registration shall reflect the height and location of the antenna support structure, the beam antennas installed on the support structure, the date of installation, and documentation of installation.

f. **Location**.

(a) **Setbacks**. All antenna support structures and the beam antennas installed on those support structures, including all elements or parts thereof, shall conform to the minimum yard setback standards of the district in which it is to be located. A satellite dish antennas shall not be permitted in front yards and shall meet all accessory structure setbacks.

(b) **Support structure location.** In addition to complying with the district setback standards, antenna support structures shall be located on the property so as to provide a minimum distance equal to fifty (50) percent of the height of the tower from above-ground utility power lines other than applicants' service lines, or a break point calculation certified by a professional engineer or as evidenced by the manufacturers' specifications that demonstrate a clear fall radius. In addition, no antenna support structure shall be located in the front yard.

(c) **Beam array antennas**. In addition to complying with the district setback standards, beam array antennas shall be mounted so as to provide for removal at approach of hurricanes, if necessary, or provide for the lowering of such beam, and in no event shall the beam or any element thereof extend closer than ten (10) feet to an official right-of-way line and/or easement, or property under different ownership.

(d) **Anchor location**. All antenna support structure and peripheral anchors shall be located entirely within the boundaries of the property. If said supports and anchors are closer than five (5) feet

to property under different ownership and if such support or anchor extends greater than three (3) feet above the ground, it shall be effectively screened against direct view from abutting properties and shall extend no greater than six (6) feet above ground.

(e) **Limitation.** No more than one (1) antenna support structure that exceeds forty (40) feet in height shall be allowed on any lot.

13. **Seaplanes.**

a. **Location.** If the seaplane facility use is limited to the immediate residential population, who jointly own and maintain the aircraft facility, it may be located in a residential district and not be of a commercial nature, provided that the facility is not within four hundred (400) feet of a residential structure. If the facility is a commercial venture, it shall not be located within one thousand (1,000) feet of a residential district.

b. **Minimum land area.** The minimum required land area for any type of seaplane operation shall be two (2) acres.

c. **Water area.** All seaplane operations shall comply with the following minimum standards for water landing area:

Length	3,500 feet
Width	300 feet
Depth	4 feet

d. **Airport approach.** No seaplane operation shall be considered unless the airport approach to the water landing area is at a slope of 40:1 or flatter for a distance of at least two (2) miles from both ends of the water landing area and is clear of any building structure or portion thereof that extends through and above the airport approach plane.

e. **Setbacks.** All buildings, structures and aircraft parked on shore shall be located a minimum distance from all property lines of at least fifty (50) feet.

f. **Landing operations.** All aircraft landings shall be performed under visual flying rules (VFR) and shall not be conducted during the hours between sunset and sunrise.

g. **Vehicle parking requirements.** Shore facilities shall provide one (1) automobile parking space for each two thousand (2,000) square feet of hangar or tie-down area, or one (1) space per craft, whichever is greater. All shore facilities shall provide a minimum of five (5) parking spaces.

h. **Certification.** Applications for seaplane operation facilities shall be accompanied by a complete "Airspace Analysis" report for the Federal Aviation Administration as well as a copy of the "Preliminary License Report" from the Florida Department of Transportation.

14. **Accessory Commercial Development.**

a. **General.** It is the purpose of this section to allow a limited amount of commercial development in certain residential developments which developed prior to the establishment of planned development regulations in Ordinance 3-57 (1969). Residential developments which meet the criteria in this section

will allow a limited amount of commercial development within the project and internalize an amount of traffic without rezoning to a planned development district.

b. **Procedure.** Residential developments which meet the criteria in this section may create a Preliminary Development Plan showing existing development and the proposed commercial use. The use shall be subject to BCC review and approval as a Conditional Use A.

c. **Residential Criteria.**

(1) **Property owners association.** A property owners association for the residential development shall be formed and shall support the proposed commercial development.
(2) **Minimum number.** The residential development must contain a minimum of five thousand (5,000) residents.
(3) **Boundaries.** The residential development must be self-contained, having private streets, controlled and limited access, and have obviously identifiable boundaries by design.

d. **Commercial development criteria.**

(1) **Number.** Only one commercial area shall be developed in each residential development.
(2) **Limitation.** Uses shall be limited to the regulations of the CN district.
(3) **Basis.** The amount of commercial development allowed shall be based on table 6.8-5, Table of PUD Commercial acreage.

[Ord. No. 93-4] [Ord. No. 94-23] [Ord. No. 95-8]

B. Temporary structures. The following supplementary regulations apply to certain types of temporary structures.

1. **Temporary emergency structures.** This section is intended to allow placement or erection of temporary structures that address immediate public needs while permanent solutions are being pursued, including but not limited to temporary fire stations, hurricane shelters, utility facilities.

a. **Determination of public emergency.** The Executive Director of PZB may authorize, in any district, the issuance of a building permit for a temporary structure upon determination that a public emergency exists or an overwhelming public purpose is served by the temporary permit.

b. **Duration.** The use shall be approved as a special use for a period of six (6) months, with one three (3) month extension, or until the emergency is determined to have ceased. The Board of County Commissioners may extend this timeframe under extenuating circumstances at any regularly scheduled public hearing. Copies of all special use permits approved under this subsection shall be forwarded to the County Attorney's Office and the Board of County Commissioners.

2. **Tents accessory to non-retail use.** A tent may be used as a temporary structure for non-retail purposes accessory to the principal use subject to the Zoning Director's approval as a special use and the standards of this subsection. Tents used for retail purposes are subject to Sec. 6.4.D (Retail sales, mobile or temporary).

a. **Frequency.** The use of the tent and the proposed non-retail use or event shall be a one-time occurrence at any given lot per year.

b. **Duration.** The tent may be used for a maximum period of ninety (90) days, provided that an additional thirty (30) day administrative extension may be approved subject to the Zoning Director's finding that

the tent and use continue to meet all the applicable requirements of this Code and the Building Code and are in harmony with the surrounding area.

c. **Setbacks**. All setback requirements of the underlying district shall be met.

d. **On-site Location**. The tent shall be located on the lot so as not to adversely interfere with on-site circulation and shall not be located in any required parking space.

e. **Access**. The primary access for the use shall be from an arterial road and shall not cause traffic to flow through nearby residential areas. Back out parking directly onto a public street shall be prohibited.

f. **Lighting**. Lighting to illuminate the premises of any temporary tent structure for advertisement or direction shall be extinguished no later than 12:00 midnight.

g. **Noise**. Sounds emanating from the temporary use shall not adversely affect surrounding residential lands.

3. **Temporary facilities during development activity**. During development of planned developments, subdivisions and multiple family projects requiring DRC approval, temporary structures and facilities may be allowed in platted developments under the following conditions and uses:

a. **Temporary construction trailer.** Use of this facility shall be limited to storage and on-site office work with no overnight habitation and provided that:

(1) **Duration.** The construction trailer remain on site only for the duration of the permitting and building of the primary structures.
(2) **Location.** The construction trailer and attendant parking and storage areas be located on site so as not to interfere with safe ingress and egress to developed areas or areas under construction.
(3) **Removal.** The construction trailer be removed if construction ceases for more than five (5) months unless it can be demonstrated that construction will proceed within 30 days.
(4) **Certificate of occupancy.** The construction trailer be removed no later than thirty (30) days after the final Certificate of Occupancy is issued.
(5) **Abandonment.** Abandoned trailers shall not be permitted on the site.
(6) **Unsafe structure.** If the building permit for the primary structures have expired, and no further permits have been issued for six (6) months, the trailer shall be removed from the property immediately. Any trailers which have been abandoned under these provisions shall be considered an unsafe structure and shall be abated pursuant to the Building Code Enforcement Administrative Code of Palm Beach County.

b. **Watchman mobile home.** Use of this facility allows overnight habitation if, under the following conditions:

(1) **Conditions.** Use of this facility allows overnight habitation if, under the following conditions:
(a) **Mobility.** The mobility of the vehicle is maintained and it is used as a mobile home or house trailer;
(b) **Permits.** Permits and inspections for trailer tie-down and electric, water supply and sewage disposal facilities are approved by all governmental agencies having appropriate jurisdiction.

(2) **Additional conditions.** The watchman mobile home is also subject to the following:
(a) **Special permit.** A special permit valid for one year shall be obtained. Requests for extensions of time beyond the initial one (1) year approval be made on forms prescribed by PZB. In no

case shall the total time exceed a maximum of two (2) years for the initial approval and subsequent extension.

(b) **Removal agreement.** A notarized mobile home removal agreement shall be executed.

(c) **No additions.** No additions or adjuncts shall be permitted to the mobile home except PZB approved awnings demountable screen panels, stairs, decks and trellises.

(d) **Parking.** A minimum of two (2) parking spaces shall be provided. **[Ord. No. 93-4]**

c. **Mobile home real estate sales and management office.** Use of this facility shall be limited to on-site office work with no overnight habitation and subject to the following:

(1) **Mobility.** The mobility of the vehicle is maintained;

(2) **Site plan.** The Master plan, final site plan, or final subdivision plan that has been certified by DRC; and,

(3) **Permits.** Permits and inspections for trailer tie-down and, electric, water supply and sewage disposal facilities are approved by all governmental agencies having appropriate jurisdiction.

(4) **Location.** The facility shall be located so as not to interfere with on site construction operations, safe ingress and egress to the proposed development.

(5) **Setbacks.** The facility shall meet the minimum setbacks of the applicable zoning district.

(6) **Handicap spaces.** Handicap spaces and access shall be provided in accordance with Secs. 316.1955, 316.1956, and 553.48, Fla. Stat.

(7) **Parking.** A minimum of six (6) parking spaces, plus one for each employee on the shift of greatest employment shall be provided. The temporary parking associated with the temporary mobil home, with the exception of the handicap parking and access, may be provided on hard surface pavement, shell rock or mulch, provided that there is a compacted subgrade. A minimum 24" hedge shall be planted around the perimeter of the parking lot.

(8) **Special permit.** A special permit to be valid for a period of one (1) year shall be obtained. Requests for extensions of time beyond the initial one (1) year approval shall be made on forms prescribed by PZB. Permits may be renewed annually provided that:

(a) **Affidavit.** A notarized affidavit indicating that the approved development is in compliance with the platting requirements of this code, or any other time specific code provisions or conditions of approval of the development order and further specifying the number of unbuilt or unsold units;

(b) **Building permit.** There is evidence indicating that a building permit for a single family dwelling has been obtained within the last year; and

(c) **Removal agreement.** A notarized mobile home removal agreement shall be executed.

(d) **Agent's authorization.** Agent's authorization is obtained from the developer.

(e) **Construction.** The Planned Development continues to be under construction.

[Ord. No. 93-4] [Ord. No. 94-23]

C. Compatibility standards. All commercial and industrial uses subject to review by the Development Review Committee and proposed to be located adjacent to or across the street from residential districts along fifty (50) percent or more of the lot perimeter, and all the uses specifically required by other provisions of this Code to comply with these standards, shall demonstrate compliance with the following architectural compatibility standards. The design of the buildings should provide variety and visual interest and create an overall unified image through the following and other appropriate means.

1. **Unified image.** An overall unified image shall be created by the use of common elements such as consistent forms, colors, architectural details and landscape materials.

2. **Uniform treatment.** Similar architectural character and treatment shall be provided on all sides of the building.

3. **Entrances**. Unit and building entries shall be easily identifiable. Entries shall be integrated into the building architecture. Entries in exterior stairs shall be designed to provide shelter from inclement weather.

4. **Roof top equipment**. All roof top mechanical and electrical equipment, including satellite dish antennas, shall be screened so as not to be visible from any point up to ten (10) feet above the ground from any point within a two hundred (200) foot radius of the building on which it is mounted. **[Ord. No. 93-4]**

5. **Storage areas**. No exterior storage areas shall be permitted within two hundred (200) feet of a residential district.

6. **Loading docks, bay doors, and accessory equipment.** Loading docks, bay doors, and accessory equipment such as dumpsters, shall be located and oriented away from residential property lines.

[Ord. No. 93-4; February 2, 1993] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-8; March 21, 1995]

SEC 6.7 OVERLAY DISTRICT REGULATIONS.

A. NE-O, Native Ecosystem Overlay District.

1. **Purpose and intent.** The purpose and intent of the Native Ecosystem Overlay (NE-O) district is to ensure the protection of environmentally sensitive lands in unincorporated Palm Beach County, while ensuring development options by permitting flexibility in development regulations.

2. **Applicability.** The provisions of the NE-O district shall apply to all development within the boundaries of the NE-O district.

3. **Boundaries.** The NE-O district shall include within its boundaries, the following lands.

   a. **Type "A" quality native upland ecosystems.** Lands identified as "A" Quality Native Upland Ecosystems in Sec. 9.3 (Environmentally Sensitive Lands).

   b. **Other "A" quality ecosystems.** Lands identified as "A" Quality Ecosystems in the Palm Beach County Comprehensive Plan, Conservation Element, Policy 2-a and Land Use Element, Policy 1-d.

   c. **Twenty-five percent set aside.** Uplands with native ecosystems to which the twenty-five (25) percent set-aside would be applicable as required by Sec. 7.5 (Vegetation Protection).

   d. **Water resources protection areas.** Lands that have a high potential for water resources protection, such as aquifer recharge areas and present and potential wellfield areas.

4. **Conflict with other applicable regulations.** When the provisions of the NE-O district conflict with other regulations applicable to the district, the provisions of this section shall prevail, except when superseded by State or federal law.

5. **Use regulations.** In the NE-O district, the use regulations shall be the same as for the underlying district.

6. **Property development regulations.** The development of lands within the NE-O district shall be subject to the property development regulations of the underlying district, except that the following property development regulations may be modified by the Zoning Director upon a written request up to the maximum allowed deviations in Table 6.7-1 below.

   a. **Off-street parking.** Off-street parking standards may be reduced by up to a maximum of thirty (30) percent if:

      (1) **Environmentally sensitive lands.** A development permitted by the underlying district cannot be feasibly designed with the required off-street parking spaces, because of the location of Environmentally Sensitive Lands (Sec. 9.2), the twenty-five (25) percent set aside on the subject property, or water resource protection areas;

      (2) **Alternative plan.** An alternative plan of development is prepared for the property that provides the maximum number of off-street parking spaces that are feasible, with a total impervious surface area design that does not exceed fifty (50) percent of the lot coverage requirement, while ensuring the proposed development is not disruptive to Environmentally Sensitive Lands (Sec.

9.2), lands set aside pursuant to the twenty-five (25) percent set aside requirement, or water resource protection areas; and

(3) **Consistent.** The alternative plan of development is consistent with the purpose and intent of the NE-O district.

b. **Density and intensity**. The calculation of maximum density or lot coverage shall be based on gross lot area.

c. **Off-street loading**. Off-street loading requirements may be reduced or eliminated if:

(1) **Environmentally sensitive lands.** A development permitted by the underlying district cannot be feasibly designed with the required off-street loading space because of the location of Environmentally Sensitive Lands (Sec. 9.2), the twenty-five (25) percent set aside on the subject property, or water resource protection areas; and

(2) **Alternative plan.** An alternative plan of development is prepared for the property with a total impervious surface area not exceeding sixty-five (65) percent of the maximum building coverage requirements, while ensuring that the proposed development is not disruptive to Environmentally Sensitive Lands (Sec. 9.2), the twenty-five (25) percent set aside requirement, or water resource protection areas; and

(3) **Consistent.** The alternative plan of development is consistent with the purpose and intent of the NE-O district.

d. **Height**. Height restrictions may be modified to implement the permitted floor area ration or building coverage if the building coverage does not exceed sixty (60) percent of that otherwise allowed by the underlying district, and the total impervious surface area does not exceed sixty-five (65) percent of the maximum building coverage requirement.

e. **Setbacks**. Yard setback requirements shall be modified if:

(1) **Environmentally sensitive lands.** A development permitted by the underlying district cannot be feasibly designed with the required setbacks because of the location of Environmentally Sensitive Lands (Sec. 9.2), the twenty-five (25) percent set aside on the subject property, or water resource protection areas; and

(2) **Alternative plan.** An alternative plan of development is prepared for the property that complies to the greatest extent practicable with the setback requirements, while ensuring the proposed development is not disruptive to Environmentally Sensitive Lands (Sec. 9.2), lands set aside pursuant to the twenty-five (25) percent set aside requirement, or water resource protection areas; and

(3) **Consistent.** The alternative plan of development is consistent with the purpose and intent of the NE-O district.

f. **Lighting**. All exterior lighting shall be shielded and directed away from native vegetation.
[Ord. No. 93-4]

B. <u>WCRA-O, Westgate/Belvedere Homes Overlay District</u>.

1. **Purpose and intent.** The Westgate/Belvedere Homes Community Redevelopment Agency (Westgate/Belvedere Homes CRA) was created pursuant to Sec. 163.330, et. seq., Fla. Stat., to remove blight conditions, enhance the County's tax base, improve the living conditions, and preserve areas of low and moderate cost housing in the Westgate/Belvedere Homes area of unincorporated Palm Beach County.

   The use of community redevelopment powers enables the Board of County Commissioners and the Westgate/Belvedere Homes CRA to make public improvements that encourage and enhance private investment and neighborhood stability, prevent continuation of inefficient and incompatible land use patterns, and assist revitalization and rehabilitation of older commercial and residential areas in the Westgate/Belvedere Homes area.

   In recognition of the special needs of the Westgate/Belvedere Homes area, the Westgate/Belvedere Homes Community Redevelopment Study Area Overlay (WCRA-O) district is established with the purpose and intent of: encouraging development and redevelopment of the Westgate/Belvedere Homes area through regulatory incentives; arresting deterioration of property values; preserving existing, viable affordable housing and providing opportunity for the future development of affordable housing; and implementing the Westgate/Belvedere Homes Community Redevelopment Plan; and under certain circumstances, providing for increased residential densities and an increase of up to twenty (20) percent in the amount of land designated as commercial on the Land Use Atlas Map without amendment to the Palm Beach County Comprehensive Plan.

2. **Applicability.** The provisions of the WCRA-O district shall apply to all development within the boundaries of the WCRA-O district. In addition to the provisions in the WCRA-O district, all development in the district shall comply with all other requirements of this Code and all other relevant Palm Beach County regulations.

3. **Boundaries.** The WCRA-O district consists of those lands within unincorporated Palm Beach County bounded by Okeechobee Boulevard on the north, Belvedere Road on the south, Florida Mango Road on the east, and Military Trail on the west. This description does not limit the CRA's ability to amend its boundaries. The WCRA-O district shall be amended as appropriate to conform to any boundary changes of the Westgate/Belvedere Homes Community Redevelopment Area.

4. **Conflict with other applicable regulations.** Where the provisions of the WCRA-O district conflict with other regulations applicable to the WCRA-O district, the provisions of this section shall prevail. Where provisions of the WCRA-O district are not in conflict with other relevant regulations, the stricter regulations shall prevail.

5. **Procedures.** Prior to the certification or request for any zoning, rezoning, density bonus, variance to a WCRA-O requirement, comprehensive plan amendment or CRA Master Plan Amendments for projects within the WCRA-O: all applicants shall obtain a recommendation from the Westgate/Belvedere Homes Community Redevelopment Agency and shall show proof of payment of any applicable Westgate/Belvedere Homes Community Redevelopment Agency fee for such.

6. **Site Plan/Final Subdivision Plan review.** All new commercial or industrial developments and residential development of more than two (2) dwelling units shall be subject to the Site Plan/Final Subdivision Plan review process.

7. **Amendment of zoning map within WCRA-O district.** All amendments to the Official Zoning Map within the WCRA-O district shall comply with the following standards.

   a. **Industrial zoning map amendment.** Any amendment to the Official Zoning Map to an industrial district may be made on land located in the Flight Path of the Palm Beach International Airport without an amendment to the Land Use Atlas of the Comprehensive Plan to an industrial land use designation.

   b. **Commercial zoning map amendment.** Any amendment to the Official Zoning Map to a commercial district or Planned Development District requiring a commercial land use designation, may be made on lands without a commercial designation on the Land Use Atlas of the Comprehensive Plan, provided the following criteria are met.

      (1) **Designation.** The commercial land use designations in the WCRA-O district in the Comprehensive Plan shall not be exceeded by more than twenty (20) percent of the total area with a commercial land use designation.
      (2) **Purpose.** The proposed amendment to the Official Zoning Map advances the purpose and intent of the Westgate/Belvedere Homes Community Redevelopment Plan, and does not have an adverse impact on surrounding land uses.
      (3) **Standards.** The proposed amendment to the Official Zoning Map is recommended for approval by the Westgate CRA in accordance with the standards established in the Westgate/Belvedere Homes Redevelopment Plan.

8. **Overlay district uses.** In the WCRA-O District, no development shall be permitted except for the following uses:

   a. **Permitted uses.** Uses permitted by right in the underlying zoning district are permitted as a right in the WCRA-O District. Additionally, residential land uses shall be permitted in the commercial land use subcategories as described in the Palm Beach County Comprehensive Plan.

      (1) **Special provisions for uses developed in CG, General Commercial zoning districts within the WCRA-O District.** Due to the compact nature of the existing development pattern within the WCRA-0 District, special provisions for uses developed in CG, General Commercial zoning districts shall apply. These special conditions shall also apply in cases pursuant to the adopted CRA Master Plan, where the implied zoning district is CG, or where the CG zoning district has been granted through the land development process of the ULDC.
         (a) **Limited permitted uses.** Commercial uses for lots fronting only on Wabasso Drive, Tallahassee Drive, Seminole Boulevard, Osceola Drive, Loxahatchee Drive, Suwanee Drive, Cherokee Avenue or Nokomis Avenue shall be limited to data information processing, park, and office, business and professional as defined in Sec. 3.2 excluding employment agencies, travel agencies and contract post offices. Lots fronting only on Nokomis Avenue shall be permitted the above uses provided nonresidential structures are limited to 1500 sq. feet. The above uses shall be conducted only between 7:00 a.m. and 6:00 p.m., Monday through Saturday.
         (b) **Office/warehouse uses in the CG district.** Developments within the WCRA-O District may obtain approval for an office warehouse use by conditional use type A, subject to the following supplementary regulations.

i) **Minimum.** The minimum percentage of office space supporting the warehouse use shall be twenty-five (25) percent of the gross floor area.

ii) **Doors.** Orientation of storage bay doors shall not face any abutting property which is residentially zoned, nor shall they be visible from any public street.

iii) **Separation.** There shall be a minimum of fifteen (15) feet separation between individual buildings within an office-warehouse combination.

(2) **Description of special land use designations within the WCRA-O District.** In order to encourage the development of compatible projects, two special land use designations would be developed under the CG, General Commercial zoning district and under the IL, Light Industrial zoning district for the WCRA-O District.

(a) **Westgate mixed-use commercial.** The purpose of this land use designation is to encourage lower intensity, mixed-use commercial development along the south side of Westgate Avenue. In order to provide opportunities for residential components within mixed-use developments, developers shall be permitted to request an increase in the residential density beyond the underlying 8 units per acre by availing of the 300 bonus residential units assigned to the area through the Palm Beach County Comprehensive Land Use Plan, and subject to approval by the Board of County Commissioners and the Community Redevelopment Agency. In further recognition of the special character of this area, the minimum lot size for this land use designation is one half (0.5) acre, thereby amending the lot size requirements of the CG zoning district as shown in table 6.5.1 for this land use designation only. All other requirements of this code shall apply.

The WCRA-O mixed land use designation shall comply with the design requirements of the MXPD section to the greatest extent practicable.

(b) **Soft-edged industrial.** The purpose of this industrial designation as indicated on the WCRA-A master plan is to ensure that adequate screening and buffering is provided in areas adjacent to existing residential development. The expanded landscaping and buffering requirement and the provision for "cleaner" and compatible light industrial development shall only be for areas that are currently shown as Industrial on the County Land Use Plan. In addition, all provisions for the IL zoning district shall apply. The frontage of developments within this land use designation shall be developed pursuant to Sec. 7.3 along the public right-of-way.

b. **Special permit uses.** Uses subject to special permit regulations in the underlying zoning district, except for adult entertainment establishments and day-labor employment centers, shall be permitted in the WCRA-O in accordance with the special permit regulations of the underlying zoning district, and Sec. 5.5.

c. **Class A and Class B Conditional Uses.** Conditional uses in the underlying zoning district shall be permitted in the WCRA-O District in accordance with the use regulations of the underlying zoning district and the conditions and provisions and other regulations as set forth and defined in the ULDC or within the WCRA-O district.

Additionally, any residential or industrial land uses may be approved as conditional uses, subject to the following:

(1) **Limitations.** The commercial land use designations in the WCRA-O District in the Palm Beach County Comprehensive Plan shall not be exceeded by more than twenty (20) percent of the total area with a commercial land use designation.

(2) **Purpose.** The proposed conditional use commercial development advances the purpose and intent of the Westgate/Belvedere Home Community Redevelopment Plan, and does not have an adverse impact on surrounding land uses.

(3) **Standards.** The conditional use is recommended for approval by the Westgate/CRA in accordance with the standards established in the Westgate/Belvedere Homes Redevelopment Plan.

9. **Property development regulations**. The development of lands within the WCRA-O district shall be subject to the property development regulations of the underlying district, except for the following:

a. **Residential density bonus**. Residential densities permitted by the underlying Land Use Atlas Map designation of the Comprehensive Plan may be increased by the Board of County Commissioners through the conditional use process, provided that:

(1) **Purpose.** The proposed residential development advances the purpose and intent of the WCRA-O district, the goals, objectives, and policies of the Comprehensive Plan, the Westgate/Belvedere Homes Community Redevelopment Plan, and does not have an adverse affect on any surrounding land uses;

(2) **Criteria.** The increased densities are consistent with the criteria established in the Westgate-/Belvedere Homes Community Redevelopment Plan for the increase of residential densities, and does not have an adverse effect on any surrounding land uses;

(3) **Total.** The additional residential units permitted do not exceed a cumulative total of three hundred (300) dwelling units, exempt from the County's Voluntary Density Bonus Program application process and procedures, as had been originally allocated to the WCRA-O district by the Comprehensive Plan. After the housing pool has been exhausted, requests for density increases may be approved by the Board of County Commissioners through the Comprehensive Plan amendment process pursuant to the County's density programs set forth in this code.

(4) **Recommended.** The proposed residential density bonus is initially recommended by the Westgate CRA.

(5) **Dispersal.** The WCRA-O district currently provides areas of low and moderate income housing. In accordance with Policy 2-g. of the Housing Element of the Comprehensive Plan, there shall be a dispersal of the concentration of low income households. Therefore, in order to encourage an equitable geographic distribution of development, the Voluntary Density Bonus criteria may not be applicable when increased densities are requested.

b. **Residential Development Standards**. In addition to the development standards contained in this Code, the following special development standards shall be required of all residential development within the WCRA-O district, at or before the time of construction or as deemed appropriate by the County.

(1) **Permitted obstructions.** Awnings or canopies projecting from a building wall may encroach over a setback not more than five (5) feet, and shall have no supports other than provided by the wall or its integral parts.

(2) **Affordable housing**.Requests to deviate from certain property development regulations (specifically indicated as flexible regulations within Sec. 6.5.L. of this Code or the WCRA-O as adopted of as may be amended) shall be authorized for affordable housing subdivision,

provided such dwelling units meet the Federal Department of H.U.D. definition of affordable for Palm Beach County and that such deviations are recommended by the W/BHCRA.

c. **Special standards for nonresidential development.** In addition to the development standards contained in this Code, the following special development standards shall be required of all nonresidential development within the WCRA-O district, at or before the time of construction as deemed appropriate by the County.

(1) **Permitted obstructions.** Awnings or canopies projecting from a building wall over a sidewalk not more than five (5) feet, and having no supports other than provided by the wall or its integral parts.

(2) **Buffers.**

(a) **Criteria.** Any proposed commercial or industrial use shall provide upgraded buffer areas of a minimum of ten (10) feet in width on all property boundaries that are contiguous to existing residential uses or land designated as residential by the Future Land Use Atlas of the Comprehensive Plan. These buffer areas shall also be required for nonresidential land uses abutting Nokomis Avenue and Cherokee Avenue and on any parcel indicated as Bonus Commercial Receiving Area on the W/BHCRA Master Land Use Plan map. The upgraded buffer shall include:

i) **Six foot wall.** A six (6) foot high opaque concrete block wall, textured or surfaced with stucco or other appropriate materials that coordinate with or are consistent with the design and colors of the principal structure on the property and finished on both sides; within the area designated as Bonus Commercial Receiving Area on the W/BHCRA Master Land Use Plan map. Chain link fencing with barbed wire topping shall not be permitted.

ii) **Hedge.** A hedge of native vegetation twenty-four (24) inches in height, spaced twenty-four (24) inches on center at planting; and

iii) **Native canopy trees.** The planting of native canopy trees, a minimum twelve (12) feet in height with a minimum six (6) foot spread, spaced twenty (20) feet on center. For buffers required on Nokomis Avenue and Cherokee Avenue, canopy trees shall be placed on alternative sides of the wall, spaced twenty (20) feet on center.

(b) **Criteria.** Commercial uses adjoining residential districts having a commercial designation on the Future Land Use Atlas of the Comprehensive Plan and commercial uses contiguous to residential uses in commercial districts shall provide a minimum five (5) foot wide landscape buffer along shared residential property lines. This buffer shall include:

i) **Six foot wall.** A six (6) foot high solid wood fence with vines planted six (6) feet on center along the inside of the fence;

ii) **Hedge.** A hedge a minimum of forty-eight (48) inches in height, spaced thirty-six (36) inches on center at planting, to be maintained at a height of sixty (60) inches, and planted on the outside of the fence or wall; and

iii) **Native canopy trees.** Native canopy trees, a minimum fourteen (14) feet in height, with a minimum six (6) foot spread, spaced twenty (20) feet on center at planting.

iv) **Alternative landscape plan.** An alternative landscape plan, approved by the WCRA and meeting minimum standards of the ULDC, may be substituted for the above.

(3) **Exterior speaker systems prohibited.** Outdoor audio speaker systems that are audible from adjoining residential property lines shall be prohibited.

(4) **Streetscape and Landscaping.** All development shall comply with the standards of Sec. 7.3 (Landscaping and Buffering). Development with frontage on Wabasso Drive, Congress Avenue,

Seminole Boulevard and Westgate Avenue or the frontage of any public right-of-way of a development within any area designated as Soft-Edged Industrial on the W/BHCRA Master Land Use Plan map shall comply with the streetscape design guidelines of the Westgate/Belvedere Homes Community Redevelopment Area Plan.

(5) **Signage.** Signage shall comply with the requirements of Sec. 7.14 (Signage), with the following exceptions:

(a) **Prohibited signs.** In addition to the signs prohibited by Sec. 7.14, the following types of signs shall also be prohibited in the WCRA-O district.

i) Flashing signs;

ii) Any flag where its longest side is greater in length than twenty (20) percent of the length of the flagpole or standard;

iii) Advertising flags, foreign flags, pennants, banners, streamers and balloons;

iv) Electronic message boards;

v) Bus bench advertising; and,

vi) Rooftop and billboard signs.

(b) **Sign face.** Signs shall be limited to one (1) square foot per two (2) linear feet of frontage up to a one hundred (100) square foot maximum, with a limit of one (1) sign per frontage per two hundred (200) feet, except for properties fronting on Okeechobee Boulevard, Military Trail, Congress Avenue and Belvedere Road.

(c) **Tenant identification sign.** All tenant identification signs shall be unified in design and those not attached to the building shall be located within a single cabinet or frame, except for properties fronting on Okeechobee Boulevard, Military Trail, Congress Avenue and Belvedere Road.

(d) **Setback.** Signs shall be setback at least five (5) feet from any sidewalk. No portion of any sign may be placed so as to overhang the public right-of-way, except for properties fronting on Okeechobee Boulevard, Military Trail, Congress Avenue and Belvedere Road.

(e) **Pole signs.** Pole signs shall be limited to fifteen (15) feet in height, with monument signs used to the maximum extent possible, except for properties fronting on Okeechobee Boulevard, Military Trail, Congress Avenue and Belvedere Road.

(f) **Commercial uses.** Fronting on Wabasso Drive, Tallahassee Drive, Seminole Boulevard, Osceola Drive, Loxahatchee Drive, Suwanee Drive, Cherokee Avenue and Nokomis Avenue shall not have pole signs. Likewise, their sign face shall be limited to twelve square feet (12 sq. feet) per side and shall not be illuminated in any way.

(6) **Lighting.** All development shall comply with the following lighting standards, in addition to those requirements in Sec. 6.6 (Outdoor lighting standards).

(a) **Casting of illumination.** All types of illumination shall be downcast and shall not overflow to adjacent property.

(b) **Wall fixture lights.** Attached wall fixture lights shall be mounted no higher than five (5) feet above the first story. They shall not be located on building roofs.

(c) **Parking lot light fixtures.** Parking lot light fixtures shall be a maximum of twenty-five (25) feet high, and shall be located a minimum of forty (40) feet apart.

(d) **Prohibition of roof top lighting.** Roof top lighting shall be prohibited.

(e) **Scaling of light fixtures.** Lighting fixtures shall be scaled to pedestrians, and shall be appropriate in design to the building and site.

(7) **Building design.**

(a) **Materials.** The use of imitation rock, imitation wood, corrugated metal, fiberglass siding or other such materials shall be prohibited.

(b) **Color**. Earth or neutral tones should be used as the dominant background color of a structure.

(c) **Roof, trim, and awnings**. Roof, trim, and awnings and canopy accent colors shall be coordinated with building colors.

(d) **Screening.** Materials similar to that of the primary structure shall be used to screen mechanical equipment, utility structures, and trash receptacles.

(e) **Entrances to buildings**. Additional entries to the building from side or rear parking lots are encouraged.

(f) **Building facade**. Detailing of the building facade should be appropriate to the building size.

(g) **Building design**. Building design shall meet the provisions of the 1990 American Disabilities Act (ADA).

(h) **Floor area ratio**. Unless otherwise restricted by this code, all commercial lots fronting on Wabasso Drive, Tallahassee Drive, Seminole Boulevard, Osceola Drive, Loxahatchee Drive, Suwanee Drive, Cherokee Avenue and Nokomis Avenue, the FAR shall be twenty (20) percent.

(i) **Height**. For all commercial lots fronting on Wabasso Drive, Tallahassee Drive, Seminole Boulevard, Osceola Drive, Loxahatchee Drive, Suwanee Drive, Cherokee Avenue and Nokomis Avenue, no building shall be more than one story and shall not exceed twenty (20) feet in height including a pitched roof.

(8) **Fences**. For nonresidential development, fences shall, by January 1, 1995, be located on the interior of any required front yard landscape buffer.

(9) **Open space for multi-family development**. Forty-five (45) percent of the total site for multi-family development shall be open space. Sixty (60) percent of the total on-site open space shall be usable open space. Open space requirements may be reduced subject to Board of County Commissioners' and CRA Board approval on a case by case basis.

(10) **Lot frontage and access designated in commercial area**. A two (2) lot tier commercial land use strip, depicted by the Land Use Atlas Map along Westgate Avenue is established for the area bounded by Cherokee Avenue on the north, Nokomis Avenue on the south, Congress Avenue on the east and the section line between Sec. 25, T43S, R42E and Sec. 30, T43S, R43E on the west. Commercial development within this area shall comply with the following standards.

(a) **Front footage**. A minimum frontage of fifty (50) feet shall be established along Westgate Avenue.

(b) **Access**. Primary access shall be permitted only to Westgate Avenue for all General Commercial District Uses including Class A and B Conditional Uses except that access to Nokomis Avenue may be permitted if Nokomis Avenue is paved in a manner acceptable to the County Engineer. For corner lots, secondary access may be permitted on Wabasso Drive, Tallahassee Drive, Seminole Boulevard, Suwanee Drive, Osceola Drive, and Loxahatchee Drive.

(c) **Integrated site plan**. The owner of a lot that does not front on Westgate Avenue, shall be allowed to amend the Official Zoning Map to a commercial use if it is combined in an integrated site plan with a lot or lots fronting on Westgate Avenue. The Board of County Commissioners may permit emergency access from Nokomis Avenue. Secondary access may be permitted to Nokomis Avenue pursuant to Sec. 6.7.B.8.a.

10. Local Residential Streets.

a. **Construction in existing right-of-way.** In the WCRA-O District, the County Engineer may approve alternatives to the County standard design sections for local street construction in order to

accommodate construction or reconstruction of paving and drainage improvements to an existing public local street, or segment thereof, which, as of the effective date of this Code, has a right-of-way width of less than fifty (50) feet and a vehicular travelway maintained by the County. Said alternative design(s) shall provide for paved travelway widths, structural sections, drainage, pedestrian access, dead-end turnarounds, and safe sight corners as prescribed by the County standards for local streets, or as deemed equivalent by the County Engineer. All required treatment and discharge control of stormwater runoff to the street drainage system shall be provided by secondary stormwater management facilities located outside the street right-of-way, permitted and constructed in accordance with applicable regulations of all agencies having jurisdiction over the receiving waters at the point of legal positive outfall.

b. **Access to residential subdivision lots.** A local street improved pursuant to Sec. 6.7.B.10.a and having continuous paved access to at least one public street on the perimeter of the WCRA-O District shall be deemed by the County Engineer to meet the requirement of local street access for residential lots created by subdivision of abutting property, in lieu of minimum legal access requirements pursuant to Sec. 8.22.2. Nothing herein shall prohibit the owner of abutting property from making application for and receiving appropriate approval of a final subdivision plan or waiver of platting prior to completion of the above-noted improvements; provided, however, that the applicable plat or affidavit of waiver shall not be approved for recordation until construction has commenced for said improvements.

11. **Stormwater Discharge Control.** For subdivision of land within the WCRA-O District where stormwater discharge from such land is regulated by a secondary stormwater system under a Surface Water Management Permit issued by South Florida Water Management District, the requirements for control of discharge pursuant to Sec. 8.24.F.2 shall be deemed waived.

[Ord. No. 93-4] [Ord. No. 94-23]

C. R&T-O, Research and Technology Overlay District.

1. **Purpose and intent.** The purpose and intent of the Research and Technology Overlay (R&T-O) district is to protect critical manufacturing employers from the encroachment of incompatible land uses and activities; provide opportunities to locate accessory, auxiliary and supporting industrial land uses in close proximity to existing manufacturing facilities; and ensure the location of compatible adjacent land uses and activities in the district that complement manufacturing and high-tech operations that are related to the continuation and future development of the County's manufacturing and industrial base. The R&T-O district is specifically included in this Code to meet the Comprehensive Plan provisions related to the Pratt-Whitney Overlay.

   Additionally, all development within the R&T-O district shall: promote efficient and economical industrial land uses and the provision of adequate public facilities to serve proposed development; promote compatible industrial land use linkages by process, production or service; be compatible with surrounding land uses and activities; preserve and protect natural features and native vegetation so as to prevent ecological damage in part through the location of buildings and land use intensities; and encourage the continuation and future development of the County's manufacturing and industrial base.

2. **Applicability.** The provisions of the R&T-O district shall apply to all development within the boundaries of the R&T-O district.

3. **Boundaries.** The R&T-O district consists generally, of those lands in unincorporated Palm Beach County lying east and north of the Beeline Highway and the Pratt-Whitney facility, which includes all or portions of Sections 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, Township 41 Range 40; Sections 5, 6, 7, 8, 9, 17, 18 Township 41 Range 41; and Section 13, Township 41 Range 39. The precise boundaries of the R&T-O district are identified on the Official Zoning Map.

4. **Conflict with other applicable regulations.** Where any provisions of the R&T-O district conflict with other applicable regulations, the provisions of this section shall prevail, except when superseded by State or federal law.

5. **Use regulations.** Development in the R&T-O district shall comply with the use regulations of the underlying district, subject to compliance with the following criteria.

   a. The proposed development shall promote the goals, objectives, and policies of the Comprehensive Plan.

   b. The proposed development is consistent with the purpose and intent of the R&T-O district.

   c. The proposed development includes adequate, safe, and appropriate public facilities and services.

   d. The proposed development is not detrimental to existing land uses or the native ecosystems of the R&T-O district.

   e. The proposed development complies with the requirements of the NE-O district and Article 9, Environmental Standards.

   f. The proposed development complies with the utility siting criteria for the limited service area.

6. **Property development regulations.** All development within the R&T-O district shall be subject to the property development regulations of the underlying district, except where it is in the NE-O district it shall be subject to the development regulations of the NE-O district.

7. **Performance standards.** All development within the R&T-O district shall comply with the rules and regulations of all governmental agencies having appropriate jurisdiction, and with all applicable requirements of this Code.

D. GA-O, Glades Area Economic Development Overlay District.

1. **Purpose and intent.** The Glades Area Economic Development Overlay (GA-O) district is intended to provide flexibility in the range of uses and property development regulations allowed in the underlying districts in the Glades area and to accommodate uses which, if deemed appropriate, will increase job opportunities and improve the economic vitality of the area. In addition, the GA-O district will provide a set of regulations that recognize the character of the area.

2. **Applicability.** The provisions of the GA-O district shall apply to all development located within the boundaries of the GA-O district. All development orders within the GA-O district shall comply with all applicable Joint Planning Area Agreements, pursuant to Florida Statutes.

3. **Boundaries**. The boundaries of the GA-O district shall be identified on the Official Zoning Map.

4. **Conflict with other applicable regulations**. When the provisions of the GA-O district conflict with other regulations applicable to the site, the provisions of this section shall prevail.

5. **Use regulations**. In the GA-O district, no building, structure or land or water use shall be permitted except for the following uses.

   a. **Permitted uses**. Uses permitted as of right in the underlying district are permitted as of right in the GA-O.

   b. **Special uses**. Uses allowed as special uses in the underlying district shall be permitted in the GA-O district after compliance with the special use standards. In addition:
      (1) **Single-family dwelling unit.** Any single-family dwelling unit required to relocate because of an eminent domain proceeding may relocate to lands in the AP district by receipt of a special use permit; and
      (2) **Nonconforming use.** Any nonconforming use may be expanded by receipt of a special use permit.

   c. **Conditional uses**. Uses allowed as conditional uses in the underlying district shall be permitted in the GA-O district after compliance with the conditional use regulations. Uses not otherwise permitted in the underlying districts may be permitted as Class "A" Conditional uses in the GA-O district after compliance with the conditional use regulations and after the Board of County Commissioners determines that the proposed use meets the following criteria.

      (1) Increases the number of jobs or provides needed housing;
      (2) Does not adversely affect adjacent land uses;
      (3) Is consistent with the goals, objectives and policies of the Comprehensive Plan; and
      (4) Helps to support existing or encourage additional Glades Area economic development.

6. **Property development regulations**.

   a. **General**. All development within the GA-O district shall be subject to the property development regulations of the underlying district, except as otherwise provided below.

   b. **Minimum density**. The Board of County Commissioners may consider the waiver of the minimum density requirement for proposed development in the Glades area when:

      (1) **Consistency.** The proposed development is consistent with the provisions of any "Joint Planning Area" agreement (Policy 4-d. Intergovernmental Coordination Element), and;
      (2) **Analysis.** An analysis is completed that addresses 1) the impact of a reduced density development on the overall infrastructure system; 2) the compatibility of the proposed development with adjacent land uses; and 3) the effect of the reduced density development on the ability of the County to meet its goals, objectives and policies related to affordable housing. If the development is located in a municipal annexation area, the analysis must be performed by the annexing municipality.

c. **Maximum density and intensity.** Maximum density and intensity of uses within the GA-O district may be allowed to exceed those imposed by the underlying district and shall be determined by the Board of County Commissioners during the conditional use permit review process.

d. **Location of structures.** Building permits in the GA-O district may be permitted between the one hundred twenty (120) foot and two hundred twenty (220) foot right-of-way line within the right-of-way of State Road 700 through Canal Point, from Third Street on the north to Triangle Park on the east, subject to approval of the County Engineer.

E. PBIA-O Palm Beach International Airport Overlay District.

1. **Purpose and intent.** The Palm Beach International Airport Approach Path Conversion Area Overlay district (PBIA-O) recognizes that some airplane noise-affected lands surrounding the Palm Beach International Airport are most suitable for campus-style industrial development, some other quality non-residential land uses, over the long-term (These are listed in the FAA noise compatibility matrix for land uses adjacent to airports). The purposes of the PBIA-O district, therefore, are as follows: (1) to protect neighborhoods surrounding the Palm Beach International Airport from incompatible land development; (2) to protect airport operations from incompatible land development, and provide development regulations that will assure safe, unobstructed access for all aircraft that enter and exit the airport; (3) to allow property owners to initiate conversion to industrial use where appropriate; and (4) to allow property owner participation in the land use decision-making process.

2. **Applicability.** The provisions of the PBIA-O district shall apply to all development located within the boundaries of the PBIA-O. Nothing herein shall require modification of an existing use, except as provided below.

3. **Boundaries.** The PBIA-O district consists of those lands in unincorporated Palm Beach County bounded by Belvedere Road on the north, Southern Boulevard on the south, Military Trail on the east, and the Florida Turnpike on the west, except for municipally incorporated areas.

4. **Conflict with other applicable regulations.** Where the provisions of the PBIA-O district conflict with other regulations applicable to the district, the provisions of this section shall prevail, or as otherwise provided by the Comprehensive Plan.

5. **General provisions.**

   a. **Use.** No use may be made of land within the PBIA-O district in such manner as to create electrical interference with radio communication between the airport and aircraft, or to make it difficult for pilots to distinguish between airport lights and others, or result in glare in the eyes of the pilots using the airport, or impair visibility in the vicinity of the airport or otherwise endanger the landing, taking off or maneuvering of aircraft.

   b. **Height.** All development applications shall comply with the Airport Height Zoning Ordinance (78-2).

   c. **Standards.** All development within the PBIA-O district shall be compatible with Airport Operations, as determined by the Board of County Commissioners, using the standards established in the Comprehensive Plan.

d. **FAA.** All development must be consistent with FAA standards, guidelines, and regulations for land use compatibility and aviation safety.

6. **Review procedures.** All development requests within the PBIA-O district shall comply with the applicable procedural provisions of this Code, in addition to the following:

a. **Elevations.** The applicant shall submit elevations of all existing and proposed structures, utility lines, or trees over thirty-five (35) feet in height.

b. **Permits.** Applications for development permits for new nonresidential uses adjacent to existing residential uses or districts shall be reviewed by the PBIA-O Committee, who shall then present their recommendation to the Zoning Commission.

c. **Review.** Nonresidential Site Specific (Future Land Use Map) amendments to the Comprehensive Plan shall be reviewed by the PBIA-O Committee, who shall then present their recommendations to the Local Planning Agency.

d. **Architectural treatment.** A review of architectural treatment shall be conducted by the Planning Division of PZB, which will prepare and forward a staff report to the Zoning Division of PZB for incorporation into the report to the Board of County Commissioners. The review of architectural treatment will be based on the requirements of this section.

7. **Use regulations.**

a. **Permitted uses.** All residential and commercial uses permitted by right in the underlying district shall be permitted in the PBIA-O district. Industrial uses shall be permitted only in a planned development district. In no case shall adult entertainment establishments, bulk storage of gas and oil, and outdoor retail sales (other than greenhouses or nurseries) be permitted in the PBIA-O district.

b. **Special uses.** All uses allowed as special uses in the underlying district shall be permitted in the PBIA-O district after compliance with the special use regulations imposed by the underlying district.

c. **Conditional uses.** All uses allowed as conditional uses in the underlying district, except for adult entertainment establishments, bulk storage of gas and oil, and outdoor retail sales (other than greenhouses or nurseries) shall be permitted in the PBIA-O district after compliance with the Conditional use regulations imposed by the underlying district.

d. **Nonconforming Uses.**

(1) **Existing residential uses.** All residential uses that exist within the PBIA-O district at the time that the PBIA-O district provisions are adopted, shall not be classified as a nonconforming use.

(2) **Existing nonresidential uses.** Commercial uses that exist within the PBIA-O district at the time that the PBIA-O district provisions are adopted and that meet the provisions of this section shall be classified as conforming uses. Commercial uses that exist within the PBIA-O at the time that the PBIA-O provisions are adopted that do not meet the provisions of this section shall be classified as nonconforming uses.

8. **Property development regulations.** The property development regulations imposed by the underlying districts shall prevail, except where modified by the following.

   a. **Unified control.** Any development within PBIA-O district shall be developed under common ownership or unity of control as provided in Sec. 6.8 (Planned Development District Regulations—General—Unified control).

   b. **Enclosed activities.** All activities, except storage and sales of landscape material, shall be operated within enclosed buildings. Outside storage areas shall be effectively screened from collector and arterial roads and adjacent property by walls, fences, and/or landscaping.

   c. **Existing commercial and industrial development.** Existing commercial and expansion of certain industrial uses in residential districts or such uses adjacent to residential uses shall comply with the property development regulations of the PBIA-O district before a Certificate of Completion may be issued when a principal structure is redeveloped or expanded by twenty (20) percent or more of gross floor area, in any one or more expansions.

   d. **Industrial rezoning criteria.** Any land within the PBIA-O district shall be eligible for rezoning to the IL district. Every application for industrial rezoning within the boundaries of the PBIA-O district, shall comply with the procedures of Sec. 5.3 (Official Zoning Map Amendments) and the following:

      (1) Lands within the PBIA-O district that are currently being used for residential development or that have previously been approved for residential development may be rezoned to the IL district, regardless of the designation on the Land Use Atlas if the parcel has a minimum contiguous area of at least five (5) acres abuts an industrial zoning or use on at least one side, and abuts a designated thoroughfare right-of-way; or
      (2) Lands within the PBIA-O district that are currently vacant and do not require site plan approval at the time of Comprehensive Plan adoption may be rezoned to the IL district regardless of the designation on the Land Use Atlas only if the parcel has a minimum contiguous area of at least five (5) acres, abuts an industrial district or use on at least one (1) side, and is not contiguous on more than two (2) sides to existing residential development, and abuts a roadway shown on the County's thoroughfare right-of-way protection plan; or
      (3) The parcel has a minimum contiguous area of at least ten (10) acres; or
      (4) The parcel has a minimum contiguous area of at least ten (10) acres if the parcel does not abut a roadway shown on the County's thoroughfare right-of-way protection plan, and; and is not contiguous on more than two (2) sides to existing residential development.

   e. **Lot dimensions and yard setbacks.** Setbacks and lot dimensions for commercial and industrial development shall be as follows.

      (1) **Lot dimensions.** The minimum lot area shall be one (1) acre, the minimum lot width and frontage shall be one hundred (100) feet, and the minimum lot depth shall be two hundred (200) feet.
      (2) **Setbacks.** The minimum building setbacks shall be as follows, provided no structures or truck parking and loading shall be permitted closer than seventy-five (75) feet to any lot line abutting a residential district, and further provided that no rear yard shall be required where an industrial lot abuts an existing or proposed railroad right-of-way or spur.

Yard	Minimum Setback
Front	25 feet
Side, interior	15 feet
Side, street	25 feet
Rear	50 feet

f. **Maximum height for industrial and commercial development.** Building height shall comply with the provisions of the Airport Height Ordinance (78-2). In addition, building heights shall be limited to a maximum of thirty-five (35) feet when immediately adjacent to an existing residential use, provided that all commercial and industrial developments immediately adjacent to an existing residential use and greater than thirty-five (35) feet shall be permitted if an additional two (2) feet is added to all setbacks for each foot above thirty-five (35) feet, except where prohibited by the Airport Height Ordinance (78-2).

g. **Access to industrial uses.** Access to industrial uses shall not be from local streets.

h. **Off-street parking for commercial or industrial developments.** For industrial or commercial uses, no parking is permitted in front of buildings. Parking shall be permitted on the sides and rear of buildings only.

i. **Commercial vehicle parking and loading.** No truck, or tractor-trailer parking or loading shall be permitted closer than seventy-five (75) feet to the lot lines abutting a residential district (inclusive of the buffer).

j. **Landscaping.** In addition to the provisions of Sec. 7.3 (Landscaping and Buffering), the following provisions must be met where a use is proposed that is incompatible with an adjacent development or district.

(1) **Minimum dimensions.**
   (a) **Minimum width.** The minimum width of the landscape strip shall be ten (10) feet.
   (b) **Minimum length.** The landscape strip shall extend along the length of the perimeter between the commercial or industrial lot and the abutting lot or district.

(2) **Mandatory landscape barrier.** A landscape barrier shall be constructed within the landscape buffer. The landscape barrier shall consist of a solid (CBS) concrete block and steel wall with a continuous footing or an alternative acceptable to the Zoning Director, having a height no less than six (6) feet measured from the highest grade on either side of the abutting lots. The exterior side of the masonry wall shall be given a finished architectural treatment that is compatible and harmonizes with existing development.

(3) **Planting instructions.** Trees shall be planted on alternating sides of the wall at intervals of twenty (20) feet. Trees shall have a minimum height of ten (10) feet. An eighteen (18) inch hedge shall be planted on the exterior side of the wall, between the trees and wall, and running the length of the wall.

k. Lighting. In addition to the standards of Sec. 6.6 (Outdoor Lighting Standards), outdoor lighting within the PBIA-O district shall comply with the following:

(1) **Restriction.** There shall be no roof top lighting.
(2) **Limitation.** Lighting fixtures shall be limited to the minimum needed for essential lighting of the site and building.
(3) **Scaling.** Lighting shall be scaled to pedestrians for sites and/or buildings adjacent to residential uses.

l. Noise compatibility and abatement requirements.

(1) **Consistency.** Commercial uses shall be consistent with uses and noise reduction construction standards recommended by EPA and FAA, and shall be consistent with the FAA land use compatibility guidelines given in Table 6.7-1.
(2) **Noise abatement.** For any commercial or industrial use, noise abatement measures incorporated into the design and construction of the structure must be used to achieve Noise Level Reduction (NLR) demonstrable to twenty-five (25) Ldn, for reception, lounge, and office areas.
(3) **Speakers.** No outdoor speakers shall be allowed that are audible at the property line.

m. Architectural treatment. Architectural treatment shall be incorporated into all sides of the facade, physical layout, and construction of a proposed use to provide an attractive addition to the neighborhood. It should achieve compatibility of design with adjacent uses. Architectural treatment shall, at a minimum:

(1) **Identification.** Physically identify the type and character of the use.
(2) **Accommodation.** Accommodate the surrounding natural and/or built environment with buildings, their siting, landscaping, lighting, and parking scaled for compatibility with the adjacent land use; and,
(3) **Asset.** Be a visual asset to the PBIA-O district.

TABLE 6.7-1
LAND USE COMPATIBILITY WITH YEARLY DAY-NIGHT AVERAGE SOUND LEVELS

Land Use (SLUCM)	Yearly Day-Night Average Sound Level (Ldn) in Decibels					
	Below 65	65-70	70-75	75-80	80-85	Over 85
Residential Use						
Residential, other than mobile homes and transient lodgings	Y	N(1)	N(1)	N	N	N
Mobile home parks	Y	N	N	N	N	N
Transient lodgings	Y	N(1)	N(1)	N	N	N
Public Use						
Schools	Y	N(1)	N(1)	N	N	N
Hospitals and nursing homes	Y	25	30	N	N	N
Churches, auditoriums, concert halls	Y	25	30	N	N	N
Governmental services	Y	Y	25	30	N	N
Transportation	Y	Y	Y(2)	Y(3)	Y(4)	Y(4)
Parking	Y	Y	Y(2)	Y(3)	Y(4)	N
Commercial Use						
Offices, businesses and professional	Y	Y	25	30	N	N
Wholesale and retail, bldg. materials, hardware and farm eq.	Y	Y	Y(2)	Y(3)	Y(4)	N
Retail trade, general	Y	Y	25	30	N	N
Utilities	Y	Y	Y(2)	Y(3)	Y(4)	N
Communication	Y	Y	25	30	N	N
Manufacturing and Production						
Manufacturing, general	Y	Y	Y(2)	Y(3)	Y(4)	N
Photographic and optical	Y	Y	25	30	N	N
Agriculture (except livestock) and forestry	Y	Y(6)	Y(7)	Y(8)	Y(8)	Y(8)
Livestock farming and breeding	Y	Y(6)	Y(7)	N	N	N
Mining and fishing, resource production and extraction	Y	Y	Y	Y	Y	Y
Recreational Use						
Outdoor sports arenas and breeding	Y	Y(5)	Y(5)	N	N	N
Outdoor music shells, amphitheaters	Y	N	N	N	N	N
Nature exhibits and zoos	Y	Y	N	N	N	N
Amusements, parks, resorts and camps	Y	Y	Y	N	N	N
Golf courses, riding stables	Y	Y	25	30	N	N

Source: Federal Aviation Regulations 14 CFR Part 150, effective January 18, 1985.

Notes and Key to Table 6.7-1:

SLUCM = Standard Land Use Coding Manual.

Y (Yes) = Land use and related structures compatible without restrictions.

N (No) = Land use and related structures are not compatible and should be prohibited.

NLR = Noise level reduction (outdoor to indoor) to be achieved through incorporation of noise attenuation into the design and construction of structure.

25, 30 or 35 = Land Use and related structures generally compatible; measures to achieve NLR of 25, 30, or 35 Db must be incorporated into design and construction of structure.

(1) Where the community determines that residential or school uses must be allowed, pressures to achieve outdoor to indoor NLR of at least 25 Db and 30 Db should be incorporated into building codes and be considered in individual approvals. Normal residential construction can be expected to provide a NLR of 20 Db, thus, the reduction requirements are often stated as 5, 10 or 15 Db over standard construction and normally assume mechanical ventilation and closed windows year round. However, the use of NLR criteria will not eliminate outdoor noise problems.

(2) Measures to achieve NLR of 25 Db must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise-sensitive areas or where the normal noise level is low.

(3) Measures to achieve NLR of 30 Db must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise-sensitive areas or where the normal noise level is low.

(4) Measures to achieve NLR of 35 Db must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise-sensitive areas or where the normal noise level is low.

(5) Land use compatible provided special sound reinforcement systems are installed.

(6) Residential buildings require an NLR of 25.

(7) Residential buildings require an NLR of 30.

(8) Residential buildings not permitted.

[Ord. No. 93-4]

F. IOZ, Indiantown Road Overlay District.

1. **Purpose and intent.** The Indiantown Road Overlay Zoning District (IOZ) is intended to implement the site development regulations of uses within the established Indiantown Road Corridor Study Area pursuant to the interlocal agreement to be adopted between Palm Beach County and the Town of Jupiter. The Town has adopted the IOZ pursuant to the recommendation of the Indiantown Road corridor Study and Chapter 163, Part II Florida Statutes.

   The purpose of the IOZ is to protect residential neighborhoods, limit uses,improve the overall aesthetics of the Indiantown Road corridor, and establish development incentives to accomplish the various objective of the corridor study.

   Through the interlocal agreement the Town and County shall provide for a means of intergovernmental cooperation in implementing the IOZ standards throughout all appropriate incorporated and unincorporated portions of the Indiantown Road corridor and in accordance with Florida Statutes Chapter 163, Part IV. The Town and County agree to use a joint review process to advance the public health, safety, and general welfare and adopt procedures for the joint administration of land development regulations.

2. **Applicability.** The provisions of the IOZ district and the Indiantown Road Corridor Study, incorporated by reference, shall apply to all proposed development order applications within the boundaries of the IOZ district, except for applications for variances.

3. **Boundaries.** The IOZ generally is located along incorporated portions of Indiantown Road east of I-95 and west of the Atlantic Ocean, including certain portions of U.S. Highway One, Military Trail, Center Street, Maplewood Drive and Central Boulevard, and certain portions of the Indiantown Road corridor east of I-95 not located within the corporation limits. Unincorporated portions of the Indiantown Road corridor include portions of Section 3, Township 41, Range 42 as indicated on the Official Zoning Map.

4. **Additional regulations.** The IOZ district regulations are contained in the interlocal agreement.

5. **Conflict with other applicable regulations.** When the provisions of the IOZ district conflict with other regulations applicable to the site the provisions of this section shall prevail.

6. **Joint Review Process.** Development approval submitted to the Palm Beach County Planing, Zoning and Building Department located within the unincorporated IOZ shall be reviewed by the Town of Jupiter. The review process shall be provided for in the adopted interlocal agreement.

   The Town and County are specifically granted authority to jointly plan for unincorporated areas adjacent to incorporated municipalities and to adopt procedures for the joint administration of land development regulations.

[Ord. No. 93-4]

G. COZ, Conditional Overlay Zone District.

1. **Purpose and intent.** The purpose and intent of the COZ district is to modify and restrict the use and site development relations otherwise authorized in the base district. All requirements of a COZ district are in addition to and supplement all other applicable requirements of this Land Development Code. Restrictions

imposed by the COZ district shall mitigate potential impact and assure compatibility to surrounding land uses.

2. **Applicability.** The provisions of the COZ district shall apply to those lands in unincorporated Palm Beach County pursuant to approval by the Board of County Commissioners. In application of a COZ district, the BCC shall find that the land proposed for rezoning is appropriate for the requested property only if base district regulations are modified. The Board shall find one or more of the following reasons for the COZ district:

   a. Potential impact to surrounding land uses requires mitigation;

   b. Compatibility will be furthered between the requested zone district and adjacent zones if uses and property development regulations are modified; and

   c. Intensity limits reflect available capacity of public facilities.

3. **Use regulations.** Restrictions which may be imposed in the COZ district shall be limited to the follow:

   a. Decreasing the number or average density of dwelling units which may be constructed on the property;

   b. increasing minimum lot size or minimum lot width requirements;

   c. decreasing maximum floor area ratio permitted;

   d. decreasing the maximum height permitted;

   e. increasing the minimum yard and setback requirements;

   f. decreasing maximum building or impervious coverage permitted;

   g. restrictions on access to abutting and nearby roadways, including specific design features intended to ameliorate potentially adverse traffic impacts; or

   h. any other specific site development regulations required or authorized by this Code.

4. **Procedure.** The property owner or agent of the property being considered for rezoning shall either (1) apply for COZ overlay and the restriction imposed by the overlay; or (2) voluntarily agree to COZ zoning during the zoning process. Restrictions imposed by the COZ district shall be included in the resolution zoning or rezoning of the property as a COZ district. The land shall retain its base district zone and the COZ shall be an overlay. All property included in a COZ district shall be identified on the Zoning Map by adding the letter "COZ" to the base district symbol. The resolution zoning or rezoning of property as a COZ district shall specifically state the modifications imposed pursuant to this section. The restrictions shall be considered a part of the text of this Code, and a violation of the restrictions shall be a violation of this Code.

H. TAP-O, Turnpike Aquifer Protection Overlay District.

1. **Purpose and intent.** Creation of the TAP-O District is needed to: (1) protect and safeguard the public health, safety and welfare by enhancing the functions of natural groundwater recharge areas; (2) minimize any potential adverse impacts on the surficial aquifer system, known locally as the "Turnpike" aquifer by limiting or restricting certain incompatible uses and developments; and (3) prevent the continuing loss of prime public water supply sites by requiring certain developments and uses to identify or identify and dedicate public water supply sites.

2. **Applicability.**

   a. The provisions of the TAP-O district shall apply to all new development, new uses or expansions of existing uses within its boundaries.

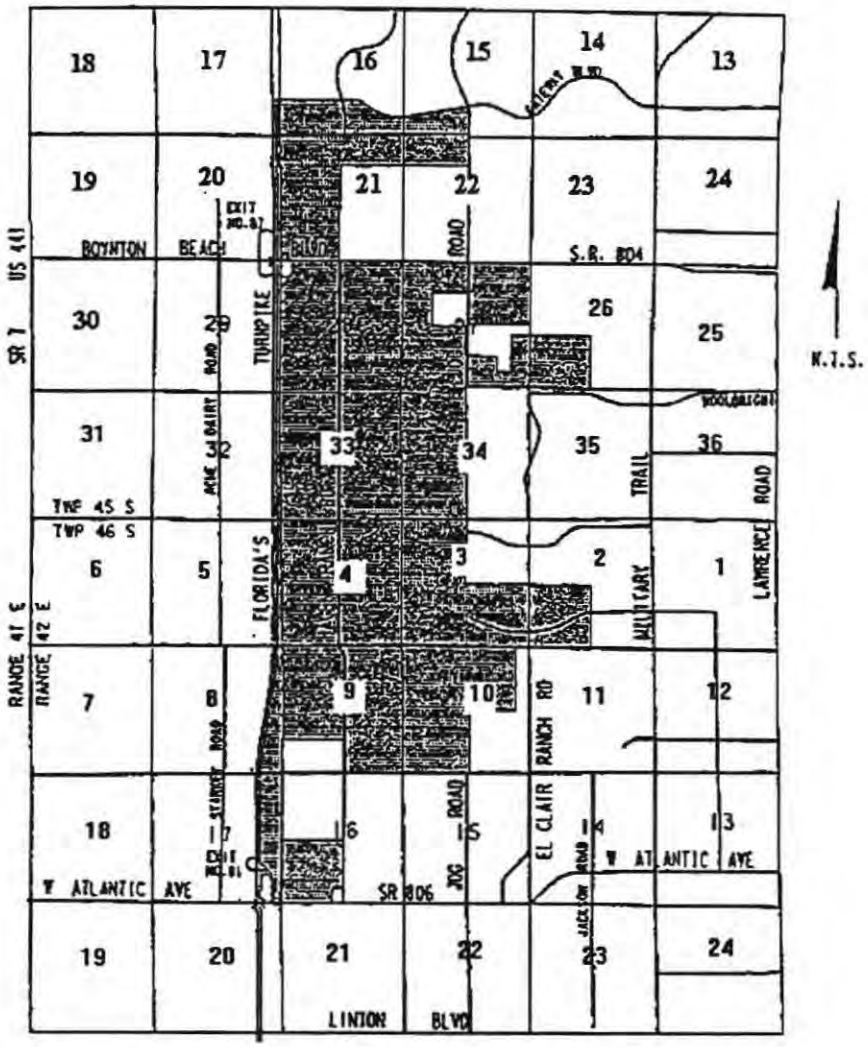
   b. All new development, new uses or expansion of existing uses located within the TAP-O district shall be designed and constructed to protect and preserve the identified groundwater resources of the area. For the purposes of this section, all improvements shall be designed and constructed in accordance with the public supply water well site location criteria contained within this section.

3. **Exemption.** All development and uses which exist on the effective date of this section shall be exempt from the requirements of this section.

4. **Boundaries.** The TAP-O district boundaries shall generally be described as the area north of West Atlantic Avenue (S.R.806), south of Northwest 22nd Avenue in Boynton Beach, east of the Florida Turnpike, and west of Military Trail. The specific boundaries are depicted on maps incorporated herein and made a part of this Code. These maps shall be on file and maintained by the PBCWUD.

Sketch To Accompany Legal Description
Turnpike Aquifer Protection Overlay District

February 16, 1995



LEGAL DESCRIPTION
To Accompany Sketch of Turnpike Aquifer Protection Overlay District

FEBRUARY 16,1995

Those tracts of land lying in Township 45 South, Range 42 East, Palm Beach County Florida, being more particularly described as follows:

A part of Section 15 being all of "Le Chalet Plat No. 1" as recorded in Plat Book 31, Pages 166 and 167, Public Records of Palm Beach County, Florida.

ALSO

A part of Section 16 being that portion of "Aberdeen Plat No. 2" as recorded in Plat Book 55, Pages 1 1 thru 22, Public Records of Palm Beach County, Florida, lying West of Hagen Ranch Road and South of the Westerly projection of N.W. 22nd Avenue (Gateway Boulevard).

ALSO

That part of Section 17 lying East of Florida's Turnpike and South of the Westerly projection of the South line of "Aberdeen Plat No. 9" as recorded in Plat Book 59 Pages 178 thru 180, Public Records of Palm Beach County, Florida.

ALSO

That part of Sections 20, 29, and 32 lying East of Florida's Turnpike.

ALSO

All of Section 21 less the Southeast 1/4 and less the South 1/2 of the Northeast 1/4.

ALSO

The North 1/2 of the Northwest 1/4 of Section 22.

ALSO

The Southwest 1/4 less the North 1/8 thereof of Section 26.

ALSO

All of Section 27 less the Southeast 1/4 of the Northwest 1/4, and less "Indian Wells" as recorded in Plat Book 52, Page 145, Public Records of Palm Beach County, Florida.

ALSO

All of Sections 28 and 33.

ALSO

The West 1 . /2 of Section 34.

ALSO

Those tracts of land lying in Township 46 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

The Southwest 1/4 of Section 2.

ALSO

All of Section 3 less the Northeast 1/4.

ALSO

All of Section 4.

ALSO

That part of Sections 5, 8 and 17 lying East of Florida's Turnpike.

ALSO

All of Section 9 less the South 1/2 of the Southwest 1/4.

ALSO

All of Section 1 0 less "Delray Villas Plat No. 2" as recorded in Plat Book 33, Pages 161 and 162, Public Records of Palm Beach County, Florida, and less the Southeast 114.

ALSO

The Southwest 1/4 less the East 1/2 of the Southeast 1/4 of the Southeast 1/4 thereof of Section 16.

---

5. **Conflict with other applicable regulations.** The requirements of this section, unless superseded by Sec. 9.3 (Wellfield Protection)of this code, or applicable state or federal law, shall apply to all new development, new uses or expansion of existing uses within the TAP-O district.

6. **General provisions.**

   a. All new development, new uses or expansion of existing uses within the TAP-O district which occur following the effective date of this section shall comply, at a minimum, with the Zone 3 requirements of Sec. 9.3 of this code for the storage, handling, use, or production of regulated substances.

   b. All new development, new uses or expansion of existing uses within the TAP-O district shall comply with the public supply water well location criteria as provided herein.

   c. All requests for development approval for new uses or expansion of existing uses within the TAP-O district submitted after the effective date of this section shall comply with the provisions of this section.

7. **Mandatory identification and dedication of public supply water well sites.** Development approvals for new development, new uses or expansion of existing uses within the TAP-O district submitted after the effective date of this section shall identify public supply water well sites. Dedication of public supply water well sites shall be required when there is rough proportionality between the required dedication and the needs of the community because of the development. The amount of well sites to be identified or identified and dedicated shall be based upon the total size of the proposed project as provided below:

   a. Developments consisting of at least 25 acres, but less than 100 acres, shall be required to identify or identify and dedicate one public supply water well site;

   b. Developments consisting of at least 100 acres, but less than 200 acres, shall be required to identify or identify and dedicate two public supply water well sites; and,

   c. Developments consisting of more than 200 acres shall be required to identify or identify and dedicate one public supply water well site for each 100 acres or part thereof.

8. **Public supply water well site compatibility and location criteria.**

   a. Public supply water well sites shall be located to be compatible with the groundwater resources of the area. To ensure compatibility, public supply water well sites shall be designed to achieve the following:

      (1) maximize natural groundwater recharge;
      (2) minimize potential drawdown impacts to surrounding natural resources, environmental resources, and artificial surface water management systems; and
      (3) minimize adverse impacts to surrounding nonresidential land uses as outlined in Sec. 9.3 (Wellfield Protection) of this Code.

   b. The following criteria shall be used in locating public supply water well sites in all new development, new uses or expanded uses located within the TAP-O district:

      (1) Public supply water well sites shall be located along the perimeter of the affected property in a manner acceptable to the PBCWUD;
      (2) Public supply water well sites shall be located, in a manner acceptable to the PBCWUD, to facilitate connection to any existing or proposed raw water line located along the right-of-way of Jog Road or Hagen Ranch Road;
      (3) Public supply water well sites, to the extent possible and in a manner acceptable to the PBCWUD, shall be evenly spaced, with a minimum separation distance of 500 feet between such sites;

(4) Public supply water well sites shall be located in accordance with setbacks required by the Florida Department of Environmental Protection and by Palm Beach County Environmental Control Rule II;

(5) Public supply water well sites shall be located within new or expanded land uses in a manner acceptable to the PBCWUD to minimize drawdown impacts to natural water bodies, surface water management systems with planted littoral shelves, and wetlands;

(6) Public supply water well sites to be dedicated, unless other dimensions are approved by the PBCWUD, shall be a minimum size of 60 feet by 40 feet; and

(7) Public supply water well sites, to the maximum extent possible, shall be located on properties acquired, dedicated, or reserved for public or common purposes such as parks, open space or easements.

9. **Dedication of well site within required open space.** For the purposes of this code, well sites dedicated to the PBCWUD shall be included in any calculation to determine required open space.

10. **Access easement to dedicated public supply water well site.**

a. A permanent access easement from each dedicated public supply water well site to the closest public right-of-way shall be provided in a manner acceptable to the PBCWUD for such purposes as maintenance of equipment and installation of water pipes.

b. If a public right of way does not exist adjacent to a public supply water well site, a permanent access easement shall be provided in a manner acceptable to the PBCWUD.

11. **Temporary construction access easement.** A temporary construction access easement shall be provided from each dedicated public supply water well site to the closest public right-of-way or other right-of-way acceptable to the PBCWUD.

12. **Hold harmless agreements.** Each dedication of a public supply water well site shall include a hold harmless agreement to relieve the County from liability for impacts to on-site irrigation wells, aesthetic lakes, and surface water management systems. The agreement shall be in a form acceptable to the County Attorney's Office.

13. **Dedication of public water supply sites.**

a. Upon approval of each future well site or sites by the PBCWUD, a conditional letter of acceptance will be issued. Prior to application for building permits, each public supply water well site shall be identified or identified and dedicated as provided below:

(1) If new development, a new use or an expanded use does not require recording of a plat then each public supply water well site to be

dedicated shall be conveyed within ninety days following final site plan certification by the Development Review Committee. The conveyance shall be in a form approved by the County Attorney's Office.

(2) If new development, a new use or expanded use requires recording a plat, the location and recordation information of each public supply water well site shall be shown on such plat.

(3) If new development, a new use or expanded use does not require a recorded plat or final Development Review Committee site plan or subdivision certification, then each public supply water well site to be dedicated shall be conveyed prior to issuance of the first required development permit, including a vegetation removal permit other than a prohibited species removal permit, excavation permit, or building permit. However, the PBCWUD may stipulate an alternate time when the public supply water well site dedication shall occur. The conveyance shall be in a form approved by the County Attorney's office.

b. The location of each well site to be dedicated shall be approved by the Palm Beach County Utilities Department.

14. **Developer's agreements.** The PBCWUD may require, as part of a developer's agreement to provide water or sewer service to a new or expanded land use, dedication of public supply water well sites consistent with the provisions of this section.

[Ord. No. 94-23]

[Ord. No. 93-4; February 2, 1993] [Ord. No. 94-23; October 4, 1994]

SEC. 6.8 PLANNED DEVELOPMENT DISTRICT REGULATIONS.

A. General. The following provisions are applicable to all Planned Development Districts.

1. **Purpose and intent.** The application of flexible land use regulations to the development of land is often difficult or impossible within traditional zoning district standards. In order to permit the use of more flexible land use regulations and to facilitate use of the most advantageous techniques of land development, it is often necessary to establish a Planned Development District designation in which development is in harmony with the general purpose and intent of this Code and the Comprehensive Plan. The objective of a Planned Development District is to encourage ingenuity, imagination and design efforts on the part of builders, architects, site planners and developers, to produce development that is in keeping with overall land use intensity and open space objectives of this Code and the Comprehensive Plan, while departing from the strict application of the dimensional standards of the traditional Districts. Planned Development Districts are intended to allow design flexibility and provide performance standards that:

   a. Ensure that future growth and development occurs in accordance with the Comprehensive Plan;

   b. Minimize adverse impacts of development on the environment by preserving native vegetation, wetlands and protected animal species to the greatest extent possible;

   c. Increase and promote the use of mass transit, bicycle routes and other non-vehicular modes of transportation;

   d. Result in a desirable environment with more amenities than would be possible through the strict application of the minimum standards of a standard zoning district;

   e. Provide for an efficient use of land, and public resources, resulting in co-location of harmonious uses to share facilities and services and a logical network of utilities and streets, thereby lowering development costs;

   f. Foster the safe, efficient and economic use of land, transportation, public facilities and services;

   g. Encourage concentrated land use patterns which decrease the length of automobile travel, allow trip consolidation and encourage pedestrian circulation between land uses;

   h. Enhance the appearance of the land through preservation of natural features, the provision of underground utilities, where possible, and the provision of recreation areas and open space in excess of existing standards;

   i. Avoid the inappropriate development of lands and provide for adequate drainage and reduction of flood damage;

   j. Ensure a more rational and compatible relationship between residential and non-residential uses for the mutual benefit of all;

   k. Protect existing residential and commercial neighborhoods from harmful encroachment by intrusive or disruptive development;

l. Provide an environment of stable character compatible with surrounding areas; and

m. Provide for innovations in land development, especially for affordable housing and infill development; **[Ord. No. 95-13]**

2. **Applicability**. The requirements of this section shall apply to all Planned Development Districts and previously approved planned developments, whether new or amended within unincorporated Palm Beach County.

a. **General**. All Planned Development Districts and previously planned developments shall comply with the requirements of Sec. 6.8.A.2, Applicability and Sec. 1.5, Exemptions and the Effect of Code and Amendments on Previously Approved Development Orders.

(1) **Thresholds.** Planned Development Districts except for previously approved planned developments shall exceed the maximum development thresholds established in Table 6.4-3, Zoning District Maximum Intensity Thresholds, and the minimum threshold requirements of the applicable Planned Development District.

(2) **Conflicts.** If conflicts exist between the provisions of this section and other regulations found in the ULDC, the provisions of this section shall control to the extent of the conflict.

(3) **Zoning.** Before any land shall be designated as a Planned Development District on the Official Zoning Map, it shall receive approval pursuant to procedures and standards of this section.

(4) **Site Development.** Site development shall not occur within a Planned Development District or previously approved planned development until the approval of a Final Site Plan/Final Subdivision Plan pursuant to the procedures and standards of this section.

b. **Modifications to previous planned developments.** Modifications to previously approved planned developments shall comply with Sec. 1.5, the requirements of this section and the requirements of the applicable planned development section.

(1) **Nonconforming uses.** Previously approved planned developments which are now considered as planned development shall not be classified as nonconforming uses.

(2) **Zoning.** Previously approved planned developments whether built or unbuilt, may be amended pursuant to the standards and procedures of this section by the DRC or the BCC without rezoning to a Planned Development District provided the project has a valid initial development order according to Article 3, Definitions.

(3) **DRC.** Modifications to previously approved planned developments, which do not require BCC approval shall comply with the modification regulations of Sec. 6.8-A.14, Action by DRC.

(4) **Land uses.** Previously approved planned developments shall be governed by the underlying land use category (as determined by Table 6.8-1) or pod designation and BCC conditions of approval for purposes of determining allowed uses and applicability of the supplementary use standards in Table 6.8-2.

(5) **Property development regulation.** Previously approved planned developments shall be governed by the development regulations of this section, the regulations within BCC conditions, and the regulations indicated on the latest certified master plan or site plan as allowed in Sec. 1.5.

3. **Residential density and Comprehensive Plan land uses categories.** The residential densities and corresponding Comprehensive Plan land use categories for planned developments districts and previously approved planned developments shall be determined by the following:

   a. **Table 6.8-1.** Table 6.8-1, Planned Development District Densities and Corresponding Land Use Categories, indicates the minimum density, the standard density, and the planned development density, and the Comprehensive Plan land use categories which correspond to the various Planned Development Districts.

      (1) **Computation of density.** The residential density for planned developments shall be based on gross site acreage.

      (2) **Minimum development density.** The minimum residential density required by the Comprehensive Plan for a particular land use category.

      (3) **Standard development density.** Standard development density is defined as the maximum density allowed without a planned development for a land use category. A planned development which meets the minimum performance standards of the Comprehensive Plan, the minimum standards of Sec. 6.8.A, Planned Development District Regulations, and the minimum standards of the applicable Planned Development District, shall receive a standard density allocation as indicated on the Land Use Atlas.

      (4) **Planned development density.** A planned development may qualify for a density bonus, in addition to the standard density, by meeting and exceeding the following standards:

         (a) The performance and density standards of the Land Use Element of the Palm Beach County Comprehensive Plan shall be met for the total density to be permitted; and,

         (b) The Planned Development District shall be consistent with and exceed the requirements of Sec. 6.8., Planned Development District Regulations including but not limited to the design criteria, vegetation preservation, transportation program and recreation requirements of the applicable Planned Development District.

         The density bonus shall not be considered an entitlement for the use of a Planned Development District, and shall only be granted for exemplary projects that exceed the minimum requirements of this section. The BCC has the option of granting standard density, a partial planned development density bonus, or the maximum planned development density bonus.

      (5) **Affordable housing.** In addition to the standard density and the planned development density, a Planned Development District may qualify for an affordable housing bonus pursuant to Sec. 6.10, Voluntary Density Bonus, or other Comprehensive Plan affordable housing programs.

THIS PAGE INTENTIONALLY LEFT BLANK

TAB[illegible]6.8-1

PLANNED DEVELOPMENT DISTRICT DENSITIES AND CORRESPONDING LAND USE CATEGORIES

PLANNED DEVELOPMENT DISTRICT	DENSITY RANGE IN "DWELLING UNITS PER ACRE (DU/AC.)" BY COMPREHENSIVE PLAN LAND USE CATEGORY								
		RR10	LR1	LR2	LR3	MR5	HR8	HR12	HR18
PUD		Min - None Std - None PDD - .1 √	Min - None Std - None PDD - 1 √	Min - 1 Std - 1.5 PDD - 2 √	Min - 1 Std - 2 PDD - 3 √	Min - 3 Std - 4 PDD - 5 √	Min - 5 Std - 6 PDD - 8 √	Min - 5 Std - 6 PDD - 8 √	Min - 5 Std - 6 PDD - 8 √
TND			Min - None Std - None PDD - 3 √	Min - 1 Std - 1.5 PDD - 4 √	Min - 1 Std - 2 PDD - 5 √	Min - 3 Std - 4 PDD - 7 √	Min - 5 Std - 6 PDD - 10 √	Min - 5 Std - 6 PDD - 14 √	Min - 5 Std - 6 PDD - 18 √
MXPD									
MUPD		√							
PIPD									
MHPD		Min - None Std - None PDD - .1 √	Min - None Std - None PDD - 1 √	Min - 1 Std - 1.5 PDD - 2 √	Min - 1 Std - 2 PDD - 3 √	Min - 3 Std - 4 PDD - 5 √	Min - 5 Std - 6 PDD - 8 √	Min - 5 Std - 6 PDD - 8 √	Min - 5 Std - 6 PDD - 8 √
RVPD		√							
SWPD		√	√	√	√	√	√	√	√

LEGEND √ Check (√) indicates that the Planned Development District corresponds to the Comprehensive Plan Land Use Category.

Planned Development Zone Districts

PUD - Planned Unit Development
TND - Traditional Neighborhood District
PDD - Planned Development District Bonus Density
MXPD - Mixed Use Planned Development
MUPD - Multiple Use Planned Development
PIPD - Planned Industrial Park Development
MHPD - Mobile Home Park Planned Development
RVPD - Recreational Vehicle Park Planned Dev.
SWPD - Solid Waste Disposal Planned Development

Comprehensive Plan Land Use Categories

RR 10 - Rural Residential 10
RR 10 - Rural Residential 10
LR 2 - Low Residential 2
LR 3 - Low Residential 3
MR 5 - Medium Residential 5
HR 8 - High Residential 8
HR 12 - High Residential 12
HR 18 - High Residential 18

Density Range

Min - Minimum Development Density
Std - Standard Development Density

TABLE 6.8-1
PLANNED DEVELOPMENT DISTRICT DENSITIES AND CORRESPONDING LAND USE CATEGORIES

PLANNED DEVELOPMENT DISTRICT	DENSITY RANGE IN "DWELLING UNITS PER ACRE (DU/AC.)" BY COMPREHENSIVE PLAN LAND USE CATEGORY						
	CLO	CL	CHO	CH	IND	AGR*	CRE
PUD						Min - None Std - None PDD - 1 √	
TND							
MXPD	√	√	√	√			
MUPD	√	√	√	√	√		√
PIPD					√		
MHPD							
RVPD							√
SWPD	√	√	√	√	√	√	√

Legend

√ Check (√) indicates that the Planned Development District corresponds to the Comprehensive Plan Land Use Category.

Planned Development Zone Districts

PUD - Planned Unit Development
TND - Traditional Neighborhood District
CHO - Commercial High Office
MXPD - Mixed Use Planned Development
MUPD - Multiple Use Planned Development
PIPD - Planned Industrial Park Development
MHPD - Mobile Home Park Planned Development
RVPD - Recreational Vehicle Park Planned Development
SWPD - Solid Waste Disposal Planned Development

Comprehensive Plan Land Use Categories

CLO - Commercial Low Office
CL - Commercial Low
PDD - Planned Development District Bonus Density
CH - Commercial High
IND - Industrial
AGR - Agricultural Reserve
CRE - Commercial Recreation

Density Range

Min - Minimum Development Density
Std - Standard Development Density

TABLE 6.8-1, NOTES:

- This chart indicates the Comprehensive Plan land use categories which correspond to Planned Development Districts. For previously approved planned developments, the Zoning Director shall use the land use category which most closely reflects the existing Zoning district and development order. For example, a development previously approved as a planned office business park in the CHO zoning district most closely corresponds to the CHO land use category. A complete listing of land use categories available in unincorporated Palm Beach County is located within the Comprehensive Plan.

- Actual maximum density granted to a Planned Development is based upon meeting performance goals and Comprehensive Plan objectives. Actual density granted by the BCC to a Planned Development may be less than the maximum density indicated.

- Gross densities above eight (8) dwelling units per acre (based on entire area of a Planned Development) shall be limited to affordable housing programs included in the Palm Beach County Comprehensive Plan and may apply for property development regulations for density bonus programs.

- Densities indicated in Table 6.8-1 shall be calculated based upon the gross area of a Planned Development.

- Maximum density for a Traditional Neighborhood District (TND) is calculated by adding the maximum underlying density of a residential land use category to the maximum density bonus available, up to two (2) dwelling units per acre, granted through the rezoning process.

- Residential density for a MXPD shall be determined by the underlying residential land use category of the commercial or industrial land use category indicated on the Comprehensive Plan Land Use Atlas. Land with a commercial or industrial land use designation without an underlying residential land use category shall be assigned a residential density by PZB based on the residential density of land surrounding the proposed district.

* Until such time as the Agricultural Reserve study is complete, PUDs shall not be developed within this land use category.

4. **Initiation of application.** An application for a development order for a Planned Development District or a previously approved planned development classification may only be submitted by the owner, or any person having a contractual interest and unified control of the land, or their authorized agent.

5. **Preapplication Conference.** A preapplication conference is optional pursuant to Sec. 5.1.C, prior to the submission of the initial application for development permit for the land. The purpose of the preapplication conference is to acquaint the potential applicant with the requirements for a Preliminary Development Plan for a Planned Development District classification. The substance of the optional preapplication conference shall be recorded in a summary prepared by the Zoning Director.

6. **Threshold review.** Prior to or simultaneous with the initial application for a development permit, a Threshold Review shall be completed and submitted pursuant to the procedures and standards of Sec. 5.1-D, Threshold Review.

7. **Submission of application.** An application for a development order for a Planned Development District classification shall be submitted to the Zoning Director, along with a non-refundable application fee set in the adopted fee schedule, as may be amended from time to time by the BCC to defray the actual cost of processing the application.

8. **Contents of application.** The application shall be submitted in a form established by the Zoning Director and made available to the public. The application shall include, but not be limited to, the following:

   a. **General application.** The General Application submission;

   b. **Unified control.** Evidence that the applicant has unified control of the land proposed for Planned Development District classification. Amendments to previously approved planned development shall provide evidence of unified control if land area is proposed to be added to the development; and,

   c. **Preliminary Development Plan.** A Preliminary Development Plan, at a scale of one (1) inch equals one hundred (100) feet or larger (unless approved by the Zoning Director), that contains, but is not limited to, the following:

      (1) The proposed name or title of the development, and the name of the engineer, architect, landscape architect or developer;
      (2) A north arrow;
      (3) The date and legal description of the proposed Planned Development District classification area;
      (4) Identification of the boundaries of the land shown with bearings, distances, closures and bulkhead lines on the land, and all existing easements, section lines, streets and physical features;
      (5) The zoning district, land use designation, existing land use and names and location of adjoining developments and subdivisions within three hundred (300) feet;
      (6) The proposed location and acreage of public and private civic sites;
      (7) The general location, minimum acreage and proposed site improvements for recreation areas;
      (8) The vehicular circulation systems, including roads and access points;
      (9) The overall site data, including tabulation of the total number of gross acres in the development, the acreage to be devoted to each land use type, the total number of dwelling units, the gross floor area of residential uses (MXPD only) and non-residential building area, and where applicable, public beach access;

(10) The applicant shall also indicate the following information on the Preliminary Development Plan within each pod or master plan or site plan within each pod for a previously approved planned development:

(a) The proposed gross density and dwelling unit count of each pod (if requesting an initial BCC approval or DRC amendment) and the gross density and dwelling units last approved by the BCC;

(b) The proposed housing type or types (Single family, Zero lot line, Townhouse, or Multiple family). The housing types requested shall correspond to the housing category last approved by the BCC;

(c) (Commercial pods only) The total gross floor area of non-residential building area last seen by the BCC and the proposed area (if a change is requested); and,

(d) The housing classification (detached housing or attached housing). The housing classification shall correspond to the housing type:

Housing Type	Housing Classification
SF - Single Family	Detached housing
ZLL - Zero Lot Line	Detached housing
TH - Townhouse	Attached housing
MF - Multiple Family	Attached housing

(11) A delineation of specific areas that constitute a pod and a proposed development phase;

(12) A general statement indicating the proposed means of drainage for the site to ensure conformity with natural drainage within the area or with the drainage plan established within the vicinity;

(13) The boundaries of platting sub-phases and chronological order of the their platting sequence;

(14) The location and type of perimeter landscape areas; and,

(15) Other information as deemed appropriate by the Zoning Director as set forth in the Planned Development District rezoning application.

d. **Previously approved planned development master or site plan.** Amendments to previously approved planned developments shall be provided on a master plan or site plan (for developments without a master plan). This master plan or site plan shall serve as the Preliminary Development Plan for the project.

(1) **Master plan site data requirements.** The master plan of a previously approved planned development shall be amended concurrent with the first DRC approval of a final site plan/final subdivision plan pursuant to this section. Each pod on the master plan shall be amended to provide the information as required for a Preliminary Development Plan in Sec. 6.8.A.8.c.10., above, and the information required on the PZB application.

(2) **Site plan site data requirements.** The site plan of a previously approved planned development without a master plan shall be amended concurrent with the first DRC approval pursuant to this section to provide the information as required for a Preliminary Development Plan, Sec. 6.8.A.8.c.10., above, and the information required on the PZB application.

e. **Adequate facilities.** A description of how there will be assurance that adequate public facilities will be available pursuant to the requirements of Article 10, Adequate Public Facility Standards.

f. **Regulating Plan.** All Planned Developments shall submit a regulating plan consisting of a comprehensive graphic and written description of the function and development of the Planned Development District. Also, a regulating plan shall be submitted for a previously approved planned development, as requested by PZB, covering the portion of the development being amended or (if flexible regulations are requested) site planned.

The regulating plan shall include the requirements listed below and the requirements of the individual District:

(1) **Flexible regulations.** Certain Planned Development District's allow the applicant to request to deviate from property development regulations specifically indicated as flexible regulations within each District's property development regulation table. Previously approved planned developments which correspond to Planned Development Districts which allow flexible regulations, also may request to utilize flexible regulations. The applicant may submit an application to the DRC to modify these regulations by a maximum of twenty (20%) percent of the stated regulation. All DRC applications for flexible regulations shall provide the following information and be subject to the following requirements:

(a) **Justification report.** A proposed modification of property development regulations shall be justified by the applicant in a written report submitted with the development application which shall include, but not be limited to:

(i) The regulations which are proposed to be modified;

(ii) The amount of the requested modification;

(iii) The areas within the Planned Development District in which these modifications shall occur; and,

(iv) Graphic representations (site plans, sections, elevations, perspectives, etc.) showing how the modifications will meet the intent of the applicable Planned Development District in respect to open space, privacy, maintenance, and public health, safety and welfare.

(b) **Review.** Flexible regulations shall be reviewed and approved by the DRC. The DRC may vote to approve the application, approve the application with certain site design amendments, deny the application, or postpone the application up to a maximum of sixty (60) days.

(c) **Limits of approval.** Flexible property development regulations are not intended to take the place of a variance. The DRC shall only grant flexible regulations for an entire pod which has not received building permits for more than twenty five (25%) of it's approved dwelling units. Flexible property development regulations shall not be granted on a lot by lot basis or for undeveloped lots located between existing housing.

(2) **Transportation program.** The applicant shall provide a transportation program which provides the following:

(a) **Alternative transportation.** Methods and standards for accommodating alternative modes of transportation to the automobile (especially bicycles and mass transit) including:

(i) **Mass transit.** A description of site improvements proposed for mass transit, such as but not limited to, bus passenger shelters, road turn-outs for bus stops, or a road system designed to accommodate bus routes; and,

(ii) **Bicycle.** A description of the site improvements proposed for bicycle circulation and storage to encourage the use of bicycles.

(b) **Path cross-sections.** Detailed cross-sections showing typical design standards for pedestrian and bicycle paths for the following areas:

(i) Walking paths (other than sidewalks);
(ii) Lighting; and,
(iii) Pathways within perimeter landscape areas.

(c) **Streetscape cross-sections.** Detailed cross-sections showing typical street designs (TND only) and pathways proposed for the perimeter landscape areas. These cross-sections shall indicate design standards for the following areas:
(i) Streets, including travel lane dimensions and road right-of-way widths;
(ii) Bicycle lanes (for through streets);
(iii) Sidewalks; and,
(iv) Parallel parking.

(If the site features listed below are required by a development order condition, typical cross-section drawings shall be provided for review at DRC)
(i) Street lights;
(ii) Street trees; and,
(iii) Median landscape plantings (within road right-of-way). **[Ord. No. 93-4]**

g. **Land use justification report.** Certain Planned Development Districts require the submittal of a land use justification report as part of the application requirements. This report shall justify and explain the amount of land uses based on population, such as but not limited to, commercial, recreational and residential. The land use justification report shall also document the methods and analysis used to calculate the proposed land use percentages and the assumptions made to calculate the projected population count.

h. **Survey.** A certificate of survey completed by a professional land surveyor registered in the State of Florida certifying the location, site configuration, and area of the Preliminary Development Plan.

i. **Conceptual site development plan.** A TND, MXPD, MUPD, SWPD and equivalent previously approved planned developments and an Optional residential pod shall provide a conceptual site development plan which indicates the general location, dimensions and character of construction of all proposed streets, driveways, points of ingress and egress, perimeter landscape areas loading areas, number of parking spaces and areas, residential areas and structures, non-residential areas and structures, recreational areas and structures and common open space.

j. **Water site features.** Location and width of canals, waterways and flood prone areas.

k. **Development phasing plan.** A development schedule that includes the following information.

(1) **Order.** The delineation of the areas to be platted and developed according to their order of construction.
(2) **Schedule.** A proposed schedule for the construction and improvement of common open space, streets, utilities, and any other necessary improvements for each development phase.

l. **Other requirements.** Other information as may be deemed appropriate by the Zoning Director.

9. **Determination of sufficiency.** Within ten (10) working days of receipt of the application, the Zoning Director shall determine whether the application is sufficient.

a. **Not sufficient.** If the Zoning Director determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the deficiencies. No action shall be taken on the application until the deficiencies are remedied.

b. **Sufficient.** When the application is determined sufficient, the Zoning Director shall notify the applicant in writing of the application's sufficiency and that the application is ready for review pursuant to the procedures and standards of this section.

10. **Review and certification by DRC.**

a. **Timing.** Within seven (7) working days after the application is determined sufficient, the Development Review Committee shall provide the applicant with a draft list of issues, if any, and then shall convene within three (3) working days of notification of issues to review the application and determine whether it should be certified. An application shall not be certified unless it meets the minimum standards for that use pursuant to Article 6 and Sec. 5.4.E.9. The decision by the Planning Director on whether to issue an Adequate Public Facilities Determination, a Certificate of Concurrency Reservation, a Certificate of Concurrency Reservation with conditions, or a Conditional Certificate of Concurrency Reservation, whichever is appropriate, pursuant to Art. 11, Adequate Public Facility Standards, shall be made prior to the Development Review Committee's decision on whether to certify an application. If a decision on adequate public facilities shall be delayed pursuant to the procedures and standards of Art. 11, Adequate Public Facilities Standards, the time for completion of the Development Review Committee decision shall be delayed so that the Planning Director's decision pursuant to Art. 11, Adequate Public Facilities Standards, is made prior to the Development Review Committee's decision on whether to certify the application. An application shall not be forwarded to the Zoning Commission for review until it has been certified by the Development Review Committee.

b. **Decision.** The Zoning Director shall make available a copy of the Development Review Committee's decision to the applicant within three (3) working days of the date that the Development Review Committee renders a decision.

c. **Public hearing.** If the application is certified, the public hearing on the application shall then be scheduled for the first available regularly scheduled Zoning Commission meeting by the time the public notice requirements can be satisfied, or such time as is mutually agreed upon between the applicant and the Zoning Director in accordance with the Zoning Director's calendar.

d. **Not certified.** An appeal of a decision not to certify an application for a Planned Development District may be made to the BCC using the forum and procedures established by the Zoning Director.

11. **Public hearings.** The Zoning Commission and the Board of County Commissioners each shall hold at least one (1) public hearing on a proposed Development Plan for a Planned Development District classification when that amendment would affect less than five (5) percent of the land in the County. The public hearings shall be held before 5:00 PM on a weekday.

12. **Notice.** A courtesy notice shall be provided to land owners adjacent to proposed planned developments, pursuant to the following standards:

a. **Publication.** No publication of notice is required for a proposed Preliminary Development Plan that affects less than five (5) percent of the land area in the unincorporated County.

(1) **Mailing.** A courtesy notice of a Preliminary Development Plan for a Planned Development affecting less than five (5) percent of the total land area of the unincorporated County shall be mailed to all owners of real property located within three hundred (300) feet of the periphery of the land to be affected by the requested change, whose names and addresses are known by reference to the latest published ad valorem tax records of the County property appraiser. The Zoning Division shall write and send the notices by certified mail in envelopes with return receipt requested, properly addressed and postage prepaid, to each owner as the ownership appears on the last approved tax roll as supplied by the applicant. The notices shall state the substance of the proposal and shall set a date, time and place for the public hearing. Such notice shall be mailed not less than fifteen (15) calendar days before the date set for the first public hearing. A copy of such notice shall be kept available for public inspection during regular business hours at the Zoning Division .

(2) **Posting.** The land subject to the application shall be posted with a notice (a sign) of the public hearing at least fifteen (15) calendar days in advance of any public hearing. All signs shall be erected in full view of the public on each street along the perimeter of the project. The signs shall be removed after the decision is rendered on the application. The failure of any such posted notice to remain in place after the notice has been posted shall not be deemed a failure to comply with this requirement, or be grounds to challenge the validity of any decision made by the Board of County Commissioners.

(3) **Other notice.** Notice of all public hearings shall be mailed to all organizations, associations and other interested persons or groups that have registered with the Executive Director of PZB and paid an annual fee to defray the cost of mailing.

b. **Five (5) percent or more of land in unincorporated County.** A hearing for a rezoning to a Planned Development District comprising five (5) percent or more of the land in the unincorporated County shall follow the publication, mailing, posting, and other notice requirements of Sec. 5.3-D.7.b.

13. **Action by Zoning Commission.** The Zoning Commission shall conduct a public hearing on the application pursuant to the procedures in Sec. 5.1. At the public hearing, the Zoning Commission shall consider the application, the staff report, public testimony and supporting materials. After the close of the public comment portion of the hearing for the application the Zoning Commission may recommend:

a. **Postponement.** A postponement of thirty (30) or sixty (60) days; or,

b. **Recommendation.** To forward the application to the Board of County Commissioners with a recommendation of: approval; approval with conditions; or, denial of the application for a Planned Development District classification.

The decisions of the Zoning Commission shall be based on consistency with the Comprehensive Plan and compliance with the intent and standards of this section and this Land Development Code.

14. **Action by BCC.**

a. **Scheduling of public hearing.** After the review and recommendation of the Zoning Commission, the application shall be scheduled for consideration by the Board of County Commissioners. The public hearing shall be scheduled at the first regularly scheduled hearing of the Board of County Commissioners by which time the public notice requirements can be satisfied, or such time as is mutually agreed upon between the applicant and Zoning Director.

b. **Decision.** At the public hearing the Board of County Commissioners shall consider the application, the relevant support materials, the staff report, the recommendation of the Zoning Commission, and public testimony. After the close of the public comment portion of the hearing for the application, the Board of County Commissioners may:

(1) **Postpone.** Postpone the application for thirty (30) or sixty (60) days; or,
(2) **Approve.** Approve, approve with conditions, or deny the application for a Planned Development District.

The decisions of the Board of County Commissioners shall be based on consistency with the Comprehensive Plan and compliance with the intent and standards of this section and this Land Development Code.

c. **Conditions.** The Development Review Committee and Zoning Commission may recommend, and the Board of County Commissioners may impose, such conditions in a development order that are necessary to accomplish the purposes of the Comprehensive Plan and this Code to prevent or minimize adverse effects upon the public and neighborhoods, and to ensure compatibility, including but not limited to, limitations on size, bulk, and location, standards for landscaping, buffering, lighting, adequate ingress and egress, and other on-site or off-site improvements, duration of the permit, and hours of operation. Conditions are not intended to repeat Code provisions, but may be included if conventional standards are inadequate to protect surrounding land uses, or if additional improvements are needed to facilitate a more compatible transition between different uses. **[Ord. No. 93-4]**

15. **Action by Development Review Committee (DRC).**

a. **Effect of certification.**

(1) **Limit on development.** Development shall not be allowed, nor any permit issued, prior to the certification of a Preliminary Development Plan or Master Plan and a Final Site Plan/Final Subdivision Plan for an approved Planned Development District or previously approved planned development.

(2) **Change in density or intensity.** Upon the certification of a Preliminary Development Plan or Master Plan or Site Plan of a previously approved planned development or a Final Site Plan/Final Subdivision Plan, the density and intensity depicted on the certified plan shall control development for the area indicated on the certified plan.

(a) **Density.** If a residential pod on a Final Site Plan/Final Subdivision Plan is determined by the applicant to contain surplus dwelling units from the density indicated on the Preliminary Development Plan or master plan previously approved by the BCC and certified by the DRC, the Preliminary Development Plan or master plan shall be amended prior to the certification of the Final Site Plan/Final Subdivision Plan to decrease density or transfer density in accordance with the following requirements:

(i) **Transfer.** The surplus units may be transferred to another pod which is permitted to develop residential units and which does not exceed a maximum density increase of thirty (30) percent above the number of dwelling units last approved by the BCC for that pod.

(ii) **Deletion.** The surplus units may be deleted from the Preliminary Development Plan or Master Plan and Final Site Plan/Final Subdivision Plan. The density resulting from Final Site Plan/Final Subdivision plan certifications which reduce the total density indicated on the Preliminary Development Plan or Master Plan shall supersede the total density approved for a Planned Development or previously approved planned development by the BCC.

(b) **Intensity.** Final Site Plan/Final Subdivision plan certifications which result in a deletion of intensity (gross floor area) shall become the controlling plan at time of DRC certification and shall supersede the maximum intensity previously approved by the BCC.

b. **Modifications to a Preliminary Development Plan, Master Plan or Site Plan.** The DRC shall approve modifications to a Preliminary Development Plan, Master Plan or Site Plan if the changes are consistent with the following limitations. Modifications which do not comply with these limitations shall require approval by the BCC.

(1) **Traffic.** There shall be no substantial increase in traffic impact above that established for the project as approved by the Board of County Commissioners, as determined by the County Engineer;

(2) **Consistency.** The modification shall be consistent with the purpose and intent of the original approval, this section, the regulating plan and the development order. Changes proposed to a Preliminary Development Plan, Master Plan or Site Plan which result in changing the original goals or intent of the project, such as but not limited to: reducing internal trip capture; substantially diminishing non-vehicular circulation opportunities; or, substantially reducing or increasing the amount of affordable housing shall require approval by the Board of County Commissioners.

(3) **Recreation character.** The overall character of recreation areas shall not be substantially reduced or altered. These areas shall be developed or managed as indicated on the Preliminary Development Plan or Master Plan approved as part of the latest BCC approved development order.

(4) **Vehicular access points.** Access points shall be established on the Preliminary Development Plan, Master Plan or Site Plan as approved by the Board of County Commissioners. No additional vehicular ingress or egress points shall be added onto any roads external to a Planned Development, onto roads internal to the PUD that are indicated on the County Thoroughfare Plan or onto roads within the PUD that are external to a pod, except for a residential land use. Access onto roads external to a pod, but internal to the PUD may be added to a residential pod in accordance with standards in Sec. 8.22. and County Standards.

(5) **Non-vehicular circulation.** Pedestrian paths (other than sidewalks which may only be amended according to Art. 8, Subdivision), bike lanes and other modes of non-motorized circulation may be amended or relocated within a Planned Development District. However, the resulting design shall maintain a continuous non-vehicular circulation system meeting the circulation requirements of the applicable Planned Development District;

(6) **Density increase transfer.** The DRC may certify an increase in residential density within a pod which results from a transfer of units from another pod within the same planned development, provided that:

(a) **Increase.** The increase shall not exceed a maximum density increase of thirty (30) percent above the number of dwelling units last approved by the BCC for that pod or result in the redesignation of a less intense housing classification to a more intense housing classification (Example: Detached housing changed to attached housing); and,

(b) **Reduction.** There shall be an equal and corresponding reduction in residential density (dwelling units) within another residential pod or zones.

(7) **Density decrease.** The DRC may certify a decrease in residential density within a pod and may redesignate housing classifications from more intensive to less intensive classifications (Example: attached housing to detached housing) provided that the resulting gross density of the planned development meets or exceeds the minimum density required by the Comprehensive Plan and the requirements of the Traffic section listed above. (Planned Developments which were approved by the Board of County Commissioners with a gross density less than the minimum required by the Comprehensive Plan shall be exempt from this requirement).

(8) **Redesignation of Pods.** The redesignation of a residential pod to a non-residential pod, the redesignation of a non-residential pod to a residential pod or the redesignation of a non-residential pod to another non-residential pod shall require approval by the BCC.

(9) **Square footage increase.** An applicant with a requested use or a special exception use may apply to increase the gross floor area of the project by five (5) percent provided the increase does not exceed one thousand (1,000) square feet, and complies with the requirements of this Code including Article 11, Adequate Public Facility Standards.

(a) **Industrial uses.** Industrial requested uses or industrial special exception uses may apply to increase the gross floor area of the project by five (5) percent provided the increase does not exceed one thousand five hundred (1,500) square feet, and complies with the requirements of this Code including Article 11, Adequate Public Facility Standards.

(b) **Other uses.** The site plans for land uses which are not requested uses or special exception uses and which are not indicated on a certified site plan or subdivision plan which was approved by the ZC or the BCC may be amended according to the limits of the applicable land use and property development regulations.

(10) **Redesignation of land use mix percentages.** No decrease in the minimum residential land use percentage shall be permitted when public or private civic site acreage has been deducted from the gross acreage in accordance with Sec. 6.8.B.4.(A).(4).b. of this Code, unless approved by the Board of County Commissioners. The Development Review Committee may approve an increase in the residential land use percentage in accordance with the standards of this subsection.

c. **Modifications to a regulating plan and limited deviations from property development regulations.** Modifications to the regulating plan for items other than for property development regulations as described above, shall require BCC review and approval. The DRC shall have the authority to permit limited administrative deviations, not exceeding ten percent (10%) of the stated standard, from property development regulations which are not designated as flexible regulations in the applicable planned development district regulations. Prior to granting this deviation, the DRC shall establish compliance with the following criteria and requirements:

(1) **Consistency and intent.** The requested deviation shall not be in conflict with and shall further the purpose and intent of this section, the Preliminary Development Plan and the regulating plan;

(2) **Concurrency.** A revised Concurrency Reservation certificate shall be required if the deviation increases or decreases the overall demand for a service above the levels approved in the development's Certificate of Concurrency Reservation;

(3) **Graphics.** Include a detailed Final Site Plan\Final Subdivision Plan and other applicable graphics to identify the specific change or changes requested from the existing standards; and,

(4) **Justification.** Provide a written justification report explaining:

(a) The reasons for the deviations;

(b) Why the amount of change requested is the minimum amount necessary to achieve the stated purpose; and,

(c) How the requested deviations comply with the intent of the regulation.

16. **Effect of Preliminary Development Plan DRC Certification.** The Preliminary Development Plan shall be binding upon the land owners subject to the development order, their successors and assigns, and shall constitute the development regulations for the land. Development of the land shall be limited to the uses, density, configuration, and all other elements and conditions set forth in the Preliminary Development Plan and development order.

17. **Classification of Official Zoning Map.** Within ninety (90) working days of receipt of proof that the Preliminary Development Plan and development order has been recorded, the Zoning Director shall amend the Official Zoning Map to show the Planned Development District classification for the lands for which the Preliminary Development Plan has been approved pursuant to the procedures and standards of this section.

18. **Effect of development order for Preliminary Development Plan.** Issuance of a development order for a Preliminary Development Plan shall be deemed to authorize amendment to the Official Zoning Map consistent with the terms and conditions of the development order. If an application for development permit for a Final Site Plan/Final Subdivision Plan is not approved within the time limits established in Sec. 5.8, Compliance with Time Limitations, the development order shall be subject to the review requirements of Sec. 5.8.

19. **Amendment to Preliminary Development Plan.** A Preliminary Development Plan for a Planned Development District may be amended only pursuant to the procedures established for its original approval as otherwise set forth in this section as applicable.

20. **Phasing controls and platting.** A planned development may be developed in one phase or in multiple phases.

    a. **Time certain development.** Each Planned Development shall be subject to the time limitations and review requirements of Sec. 5.8, Compliance with Time Limitations, and shall proceed in a reasonably continuous and timely manner according to a phasing and platting schedule and any other requirements identified on a planned development's approved development order.

    b. **Plat phase requirements.** All land within the Planned Development District shall be platted. Planned developments shall indicate platting phases identifying the phasing schedule in chronological order of development. Planned Development Districts with sector planning areas shall give preference to land uses shown in the Land Use Justification Report as having the greatest land use imbalance in determining the chronological order of development.

21. **Unified control.** All land included within a Planned Development District or a previously approved planned development shall be owned or under the control of the applicant or subject to unified control. Prior to DRC Certification the applicant shall present evidence, as required by the County Attorney, of the unified control of the entire area covered by the Planned Development and shall agree that once the Planned Development is approved, the following conditions shall be met:

    a. **BCC conditions.** Unified control shall be established in accord with the Preliminary Development Plan and such other conditions or modifications as may be attached to the final approval of the development order;

    b. **County Attorney approval.** Agreements, covenants, contracts, deed restrictions, unities or sureties shall be subject to approval by the County Attorney for development and completion of the development in accordance with the adopted Planned Development order as well as for the continuing operation and maintenance of such areas, functions and facilities which are not provided, operated or maintained at general public expense. The Unity of Control shall be approved and recorded prior to final certification of the Preliminary Development Plan by the Development Review Committee.

    c. **Public civic uses.** Public civic uses shall not be subject to regulating documents for the remaining planned development areas as required in Sec. 6.8.A.21.b above, unless set forth in the development order approved by the Board of County Commissioners.

    d. **Successive owners.** Successive owners shall be bound in title to any commitments made under the two (2) previous conditions and written consents and agreements shall be secured from all property owners of record within the Planned Development who had not joined in the original development order. These consents shall state that there are no objections to including their land within the Planned Development.

22. **Use regulations.** Planned Development District or previously approved planned development shall provide land uses as indicated in Table 6.8-2, (Use Regulations Schedule), unless otherwise restricted by the conditions included in the final development order and subject to the provisions below:

a. **Administrative categories.** All land uses shall be classified into one of the following administrative categories established by this section and Table 6.8-2, Planned Development District Use Regulations Schedule: general land uses; special land uses; or requested land uses. These land uses are regulated according to pod or land use category as indicated on the Comprehensive Plan Land Use Atlas.

b. **General land uses.** These uses are allowed in conjunction with an approved Preliminary Development Plan, master plan or site plan and do not require further Zoning Commission or BCC approval prior to approval of a Final Site Plan/Final Subdivision Plan for a building permit;

(1) **Special land uses.** These uses require an administrative approval and issuance of a special permit. Special land uses may also require approval by the Development Review Committee; and,

(2) **Requested land uses.** These uses are required to be indicated on a Preliminary Development Plan, master plan or site plan and shall receive BCC approval.

c. **Supplementary use standards.** A number in the "Note" column of Table 6.8-2, (Planned Development Use Regulation Schedule) refers to supplementary land use standards applicable to a particular land use in one (1) or more of the pods or Comprehensive Plan land use categories in which such use is allowed. These standards are located in Sec. 6.4.D, (Supplementary use standards).

d. **Additional requested uses.** Additional uses may be designated as requested land uses by complying with the following:

(1) **Justification.** These uses shall be listed and justified in the land use justification report for the Planned Development District or previously approved planned development; and,

(2) **Location.** These uses shall be located in pods of Planned Development Districts which are similar and comparable to a standard zoning district in which these uses are allowed.

e. **Accessory uses.** Principal uses listed in the Use Regulations Schedule (Table 6.8-2) are deemed to include accessory uses identified by this Code and such other accessory uses that are necessarily and customarily associated with and are incidental and subordinate to such principal uses. An accessory use shall be subject to the same regulations that apply to the principal use, except as otherwise provided.

(1) **Location.** All accessory uses, buildings and structures, except for approved off-site parking, shall be located on the same lot as the principal use in each district, except as otherwise provided.

(2) **Floor area.** The permitted accessory use shall not exceed thirty (30) percent of the gross floor area or business receipts of the principal use, or uses.

TABLE 6.8-2
PLANNED DEVELOPMENT DISTRICT
USE REGULATIONS SCHEDULE

Use Type	Planned Development Zoning District																									NOTE
	PUD				TND					MXPD				MUPD						PIPD			MHPD	RVPD	SWPD	
	Use Zone				Use Zone					Land Use Category				Land Use Category						Use Zone						
	REC	RES	CIV/P	COM	RES	CIV/P	SHOP	WORK	SECT	CLO	CL	CHO	CH	RR	CLO	CL	CHO	CH	CR	IND	IND/L	COM**	IND/G				
Agricultural uses																										
Agricultural research/development																				G	G		G				3
Agricultural sales and service							G		G									G				G					4
Agricultural transshipment									G											G	G		G				5
Equestrian arena			R			R													G								34
Kennel, commercial				R					G				R					R				G					53
Kennel, private																											54
Nursery, retail				G			G		G				G					G				G					66.1
Nursery, wholesale									G					G							G		G				66.2
Stable, commercial														G					G								90
Stable, private		G			G																						91
Stand for sale of agricultural products				G			G	G		G	G	G				G		G	G	G		G					92
Sugar mill or refinery																							G				93

TABLE 6.8-2
PLANNED DEVELOPMENT DISTRICT
USE REGULATIONS SCHEDULE

Use Type	Planned Development Zoning District																									NOTE
	PUD				TND					MXPD				MUPD						PIPD			MHPD	RVPD	SWPD	
	Use Zone				Use Zone					Land Use Category				Land Use Category						Use Zone						
	REC	RES	CIV/P	COM	RES	CIV/P	SHOP	WORK	SECT	CLO	CL	CHO	CH	RR	CLO	CL	CHO	CH	CR	IND	IND/L	COM**	IND/G				
Commercial uses																										
Adult entertainment																					S	S					2
Auction, enclosed				R			G	G	G									G	G			G					13
Auction, outdoor									R									R	R	R	G	G	G				13
Automotive paint or body shop				R					R									R		R	G	G	G				14
Automotive service station				R					R		R		R			R		R		R	G	G	G				15
Bed and Breakfast		S		S	S		S		S	S	S	S	S		S	S	S	S	S			S					16
Broadcasting studio				R			R		G	R	R	R	R		R	R	G	G	G	G	G	G					
Building supplies, retail				R			G		G				R					R				G					
Building supplies, wholesale								G	G											G	G		G				
Car wash and auto detailing				R					G				R					R		G	G	G	G				18
Contractor's storage yard																				G	G		G				25
Convenience store				G			G		G	G	G	G	G			G		G				G		G	G		26
Convenience store with gas sales				R					R		R		R					R				G					27
Day labor employment service																		R		R		G					29
Dispatching office								G	G				R					R			G	G	G				30
Financial institution				G			G		G	R	R	G	G		R	R	G	G				G					38
Flea market, enclosed									G				R					R				G					40
Flea market, open																		R				R					41
Fruit and vegetable market				G			G		G		G		G			G		G				G					42
Funeral home or crematory									R				R			R		R				G					43
Gas and fuel, wholesale									R											R			G				

Use Type	Planned Development Zoning District																												NOTE
	PUD				TND					MXPD				MUPD						PIPD			MHPD	RVPD	SWPD				
	Use Zone				Use Zone					Land Use Category				Land Use Category						Use Zone									
	REC	RES	CIV/P	COM	RES	CIV/P	SHOP	WORK	SECT	CLO	CL	CHO	CH	RR	CLO	CL	CHO	CH	CR	IND	IND/L	COM**	IND/G						
Hotel, motel, SRO, Boarding & Rooming House				R			R		G			R	R				R	R	R			G							51
Landscape maintenance service				R				G	G				R	R				R		G	G	G							55
Laundry services				G			G		G	G	G	G	G		G	G	G	G			G	G		G	G				56
Lounge, cocktail				R			R		G		R	R	G			R	G	G	G			G							57
Medical or dental clinic				G			G		G	G	G	G	G		G	R	G	G				G							60
Medical or dental laboratory									G						G	G	R	G			G								
Monument sales, retail				G			G		G		G		G			G		G				G							
Newsstand or gift shop				G			G		G	G	G	G	G		G	G	G	G	G		G	G		G	G				66
Office, business or professional				G			G	G	G	G	R	G	G		G	R	G	G				G							68
Parking garage, commercial				R					G								R	R	R			G							71
Parking lot, commercial				R					G								R	R	G										71
Personal services				G			G		G	G	G	G	G		G	G	G	G				G		G					72
Printing and copying services				G			G		G	G	G	G	G		G	G	G	G				G							
Repair and maintenance, general				R					G									R		G	G	G	G						77
Repair services, limited				G					G	G	G	G	G		G	G	G	G		G		G							78
Restaurant, fast food				R								R	R				R	R				G							79
Restaurant, general				G			G		G	R	G	G	G		R	G	G	G	G			G							80
Restaurant, specialty	G			G			G		G	G	G	G	G		G	G	G	G	G			G							81
Retail sales, general				G			G		G	G	G	G	G			G		G				G							82
Retail sales, Mobile, temporary or transient				S			S		S		S		S		S	S	S	S				S							
Self-service storage									G							R		R		G	G	R	G						83
Theater, drive-in									R									R	R			R							87
Theater, indoor				R					R				R					R	G										
Towing service and storage									R											G	G								

Use Type	Planned Development Zoning District																												NOTE
	PUD				TND					MXPD				MUPD						PIPD			MHPD	RVPD	SWPD				
	Use Zone				Use Zone					Land Use Category				Land Use Category						Use Zone									
	REC	RES	CIV/P	COM	RES	CIV/P	SHOP	WORK	SECT	CLO	CL	CHO	CH	RR	CLO	CL	CHO	CH	CR	IND	IND/L	COM**	IND/G						
Upholstery shop				G	G		G	G	G		G		G			G		G		G	G	G							
Vehicle inspection center				R					R		R		R			R		R		G	G	G							
Vehicle sales and rental				R					R		R		R			R		R				R							97
Veterinary clinic				R			R		G	R	R	R	R	R	R	R	G	G				G							98
Vocational school				R					G		R	R	R			R	G	G		G		G							99
Wholesaling, general									G											G	G		G						102

TABLE 6.8-2
PLANNED DEVELOPMENT DISTRICT
USE REGULATIONS SCHEDULE

Use Type	Planned Development Zoning District																												NOTE
	PUD				TND					MXPD				MUPD						PIPD			MHPD	RVPD	SWPD				
	Use Zone				Use Zone					Land Use Category				Land Use Category						Use Zone									
	REC	RES	CIV/P	COM	RES	CIV/P	SHOP	WORK	SECT	CLO	CL	CHO	CH	RR	CLO	CL	CHO	CH	CR	IND	IND/L	COM**	IND/G						
Industrial uses																													
Asphalt or concrete plant																				R			G					
Data information processing											G	G	G			G	G	G		G	G	G	G					
Excavation, Type III																							R					35
Grain milling or processing																				G			G					
Heavy industry																				R	R		G					
Laboratory, industrial research									G											R	G		G					
Machine or welding shop								G	G											G	G		G					58
Manufacturing and processing									G											G	G		G					
Motion picture production studio																	G	G	R	G	G	G	G					64
Office of industrial nature									R												G	G						
Pottery shop, custom							G	G			G		G			G		G		G	G		G					
Salvage or junk yard																				R			R					
Transportation transfer facility (distribution)																					G		G					
Warehousing									G											G	G		G					100
Woodworking or cabinetmaking				R				R	R				R					R		G	G		G					

TABLE 6.8-2
PLANNED DEVELOPMENT DISTRICT
USE REGULATIONS SCHEDULE

Use Type	Planned Development Zoning District																								NOTE
	PUD				TND					MXPD				MUPD						PIPD			MHPD	RVPD	SWPD	
	Use Zone				Use Zone					Land Use Category				Land Use Category						Use Zone						
	REC	RES	CIV/P	COM	RES	CIV/P	SHOP	WORK	SECT	CLO	CL	CHO	CH	RR	CLO	CL	CHO	CH	CR	IND	IND/L	COM**	IND/G				
Public and civic uses																											
Airplane landing strip, accessory			R			R													R	R	R	R	R				9
Airport																			R	R	R		R				9
Assembly, nonprofit			R	G		R			G	R	R	G	G			R		G	G	G		G	G				12
Cemetery or mausoleum			R																								19
Church or place of worship			R	R		R					R		R			R		R	R			R		R			21
College or university			R						R		R		R					R		R		R					
Day care center, general			R	R		R		G		R	R	R	R		R	R	R	R	R		R	R	R	R	R		28
Day care center, limited			G	G		G	G	G	G	G	G	G	G	R	G	G	G	G	G	G	G	G	G	G	G		28
Government services			R	G		R	G	G		G	G	G	G	R	G	G	G	G	G	G	G	G	G	G	G		46
Heliport or helipad				R		R			R					R			R	R	R	R	G	G	G				9
Hospital or medical center				R					R		R	R	R			R	R	R				R					52
School, elementary or secondary			R								R	R	R		R	R	R	R				R					85
Transportation facility				R					R				R					R		R	G	G	G				

TABLE 6.8-2
PLANNED DEVELOPMENT DISTRICT
USE REGULATIONS SCHEDULE

Use Type	Planned Development Zoning District																												NOTE
	PUD				TND					MXPD				MUPD						PIPD			MHPD	RVPD	SWPD				
	Use Zone				Use Zone					Land Use Category				Land Use Category						Use Zone									
	REC	RES	CIV/P	COM	RES	CIV/P	SHOP	WORK	SECT	CLO	CL	CHO	CH	RR	CLO	CL	CHO	CH	CR	IND	IND/L	COM**	IND/G						
Recreational uses																													
Amusements, temporary or Special event	S		S	S			S	S	S		S		S	S		S		S	S	S		S	S					10
Arena, auditorium or stadium				R					R				R					R	R			R						11
Campground																			G									17
Camping Cabin																									G			17.1
Entertainment, indoor				R			R		R		R		R			R		R	G			G						32
Entertainment, outdoor				R					R		R		R			R		R	G			G						33
Fitness center	G		R	R			R		G		R	G	G			R	G	G	G			G						39
Golf course	R									R	R	R	R		R	R	R	R	R	R	G		G					45
Gun club, enclosed									R									R	R	R	G	R	G					48
Gun club, open																			R									49
Gun range, private																					G	R	G					
Marine facility	R			R					G			R	R				R	R	R			G						59
Park, passive	G	G	G	G	G		G	G	G	G	G	G	G		G	G	G	G	G		G	G	G	G	G			69
Park, public	G		G							R	R	G	G			R		G	G	G		G		R	R			70
Zoo																		R	R									104

TABLE 6.8-2
PLANNED DEVELOPMENT DISTRICT
USE REGULATIONS SCHEDULE

Use Type	Planned Development Zoning District																									NOTE
	PUD				TND					MXPD				MUPD						PIPD			MHPD	RVPD	SWPD	
	Use Zone				Use Zone					Land Use Category				Land Use Category						Use Zone						
	REC	RES	CIV/P	COM	RES	CIV/P	SHOP	WORK	SECT	CLO	CL	CHO	CH	RR	CLO	CL	CHO	CH	CR	IND	IND/L	COM**	IND/G				
Residential uses																										
Single-family		G			G																					88
Zero Lot Line		G			G					G	G	G	G													103
Multi-family		G			G		G	G	G	G	G	G	G													65
Mobile home dwelling																							G			62
Townhouse		G			G					G	G	G	G													95
Accessory apartment		S			G																					1
Congregate living facility, Type 1		G			G																					24
Congregate living facility, Type 2		R	S			S					S		S									S				24
Congregate living facility, Type 3		R	R	R		R			R	R	R	R	R		R	R	R	R								24
Farm residence																										36
Farm tenant quarters																										37
Garage sale		G			G					G	G	G	G										G			44
Home occupation		G			G					G	G	G	G										G			50
Migrant farm labor quarters																										61
Nursing or convalescent facility				R		R			G		R		R			R		R								67

Use Type	Planned Development Zoning District																												NOTE
	PUD				TND					MXPD				MUPD						PIPD			MHPD	RVPD	SWPD				
	Use Zone				Use Zone					Land Use Category				Land Use Category						Use Zone									
	REC	RES	CIV/P	COM	RES	CIV/P	SHOP	WORK	SECT	CLO	CL	CHO	CH	RR	CLO	CL	CHO	CH	CR	IND	IND/L	COM**	IND/G						
Security or caretaker quarters			S	S		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S			8

TABLE 6.8-2
PLANNED DEVELOPMENT DISTRICT
USE REGULATIONS SCHEDULE

Use Type	Planned Development Zoning District																								
	PUD				TND					MXPD				MUPD						PIPD						
	Use Zone				Use Zone					Land Use Category				Land Use Category						Use Zone						
	REC	RES	CIV/P	COM	RES	CIV/P	SHOP	WORK	SECT	CLO	CL	CHO	CH	RR	CLO	CL	CHO	CH	CR	IND	IND/L	COM**	IND/G	MHPD	RVPD	SWPD	NOTE
Utilities																										
Air curtain incinerator, permanent																				R	R		R			R	7
Air curtain incinerator, temporary				S					S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	8
Chipping and mulching																				G	G		G			G	20
Communication tower, commercial						R			R				R	R				R		R	G	G	G				22
Composting facility																				G	G		G			G	23
Electrical power facility				R					R					R			R	R	R	R	G	R	G			G	31
Incinerator																										R	84
Recycling center									G							G		G		G	G	G	G			G	
Recycling station			S	S		S	S	S	S	S	S	S	S		S	S	S	S	S	S	S	S	S			G	74
Recycling bin	S		S	S		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		G	75
Recycling plant									R											G	G	G	G			G	76
Sanitary landfill																										R	84
Solid waste transfer station														R			R	R	R	R	G	R	G			R	89
Utility, minor		G	G	G		G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	G	96
Water or wastewater plant			R						R			R	R	R			R	R	R	R	G		G	R	R	G	101

23. Design objectives. Planned Developments shall forward the goals of the Comprehensive Plan by complying with the following design guidelines.

a. **General objectives.**

(1) Land shall contain sufficient width, depth, and frontage on a publicly dedicated arterial or major street or appropriate access thereto as shown on the Palm Beach County Thoroughfare Plan to adequately accommodate its proposed use and design.

(2) The proposal shall provide a continuous, non-vehicular circulation system and perimeter landscape areas to connect buildings and other land improvements.

(3) The proposal shall conveniently design and locate parking to encourage pedestrian circulation between land uses.

(4) The proposal shall preserve existing trees and other natural features of the site to the greatest possible extent.

(5) The proposal shall enhance the appearance of the buildings and grounds with supplemental plantings to screen objectionable features and to control noise from areas or activities beyond the control of the Planned Development.

(6) The elements of the Final Site Plan\Final Subdivision Plan shall be harmoniously and efficiently organized in relation to the size and shape of the tract, the character of the adjoining property, and the type and size of the buildings, in order to produce a compatible, functional, and economical land use pattern.

(7) The arrangements of buildings shall be in favorable relation to the natural topography, existing desirable trees, views within and beyond the site, and exposure to the sun and other buildings on the site.

(8) The Final Site Plan\Final Subdivision Plan shall provide for adequate surface water management and soil conservation.

(9) The proposal shall not be detrimental to the established land use patterns in the surrounding area.

(10) The proposed land uses shall provide needed housing or services to the surrounding land uses.

b. **Perimeter landscape and edge areas.** Perimeter landscape or edge areas shall be located along the entire perimeter of a Planned Development and shall buffer incompatible pods and land uses. All perimeter landscape areas shall be designated on the Preliminary Development Plan, Master Plan and Site Plan as one of the following types:

(1) **Preserve or mitigate natural areas - Type (A) perimeter landscape area.** These perimeter landscape areas shall be designed in conjunction with Sec. 7.5, Vegetation Protection and Preservation. The preservation or mitigation of wetlands and other native, non-invasive plant species is the primary purpose of this perimeter landscape areas. This perimeter landscape area shall be supplemented with trees and shrubs according to Table 6.8-3, Perimeter Landscape Area Regulations, if required by ERM.

(2) **Provide open space corridors to connect land uses and pods - Type (B) perimeter landscape area.** These perimeter landscape areas shall be provided around the perimeter of a Planned Development which is not designated as a preserve area, is not along a road right-of-way, and is not separating incompatible pods or land uses. These perimeter landscape areas shall provide trees and shrubs as required by Table 6.8-3, Perimeter Landscape Area Regulations.

(3) **Buffer incompatible land uses - Type (C) perimeter landscape area.** The portion of a perimeter landscape area required as a buffer depends upon the compatibility of the surrounding and internal land uses and the design of the pods within a Planned Development District or previously approved planned development. These perimeter landscape areas shall provide landscaping, berms or a combination of these buffering elements as required in Table 6.8-3, Perimeter Landscape Area Regulations.

(a) **Exemptions.** A Type (C) perimeter landscape buffer is not required if adjacent incompatible pods or land uses are separated by a common spatial element. A common spatial element shall be defined as one of the following:

(i) A road right of way with a width of eighty (80) feet or greater;

(ii) A dedicated water management tract or canal right of way with a width of fifty (50) feet or greater; or

(iii) A recreational facility, (i.e. golf course, neighborhood park, etc.) with a width of fifty (50) feet or greater.

(b) **Required locations.** A Type (C) perimeter landscape area shall be located to separate and buffer incompatible pods and land uses in the following circumstances:

(i) **Residential.** If residential housing located along the perimeter of a pod is incompatible with the housing located directly adjacent, including outside the Planned Development. Incompatible shall mean:

a) **Building height.** A proposed building height exceeding adjacent building heights by more than two stories or twenty-eight (28) feet; or,

b) **Different housing classification.** The housing within a pod exceeds the density of adjacent housing or pod by three (3) or more dwelling units an acre and is a different housing classification (attached and detached). (Example: zero lot line adjacent to townhouse, single family adjacent to multiple family, zero lot line adjacent to multiple family.), or,

c) **Same housing classification.** The housing within a pod exceeds the density of the adjacent housing or pod by five (5) or more dwelling units and acre and is the same housing classification (attached or detached). (Example: zero lot line adjacent to single family, townhouse adjacent to multiple family, zero lot line adjacent to zero lot line.)

d) **Incompatible densities.** For the purpose of determining incompatibility, the residential density within a Planned Development shall be measured by calculating the gross density of the applicable pod.

The residential density outside of a Planned Development shall be determined by the underlying land use category. If provided by the applicant, the residential density within a three hundred (300) feet radius of the border of the applicable pod outside of the planned development may be used to determine density.

(ii) **Nonresidential uses (commercial, private civic and industrial).** Type (C) perimeter landscape areas shall separate nonresidential uses from residential housing unless both uses are within a MXPD district or other area designated for mixed-use.

(c) **Type (C) design standards.** Type (C) perimeter landscape areas shall contain the following landscape elements:

(i) **Wall, fence or equivalent.** A minimum six (6) foot high opaque wall or fence or an equivalent minimum six (6) foot high berm, hedge, wall or fence or combination thereof, shall be provided along the entire length of a Type (C) perimeter landscape area. This opaque, screen shall be six (6) feet in height at time of installation and shall be installed prior to the issuance of the first building permit for each platting sub-phase or development phase as indicated on the Final Site Plan\Final Subdivision Plan. The opaque screen shall have openings as required by the DRC, not exceeding twenty (20) feet in width, to allow easy access for pedestrians. This requirement for a wall, fence or equivalent may be waived by

the DRC if the incompatible property has an existing landscape buffer which already contains a minimum six (6) feet high opaque wall or fence, or an equivalent minimum six (6) feet high berm, hedge, wall or fence or combination thereof. However, the tree and shrub requirements for a type (D) perimeter landscape area shall be provided is this area.

(ii) **Trees.** Native canopy trees shall be provided as indicated in Table 6.8 - 3, Perimeter Landscape Area Regulations.

a) **Height and spread.** The tree heights and spreads may be staggered as indicated below or meet the minimum size and spread requirements found in (ii) below.

i) Twenty five (25%) percent of the trees shall have a minimum height of six (6) to eight (8) feet with a minimum spread of three (3) feet;

ii) Twenty five (25%) percent shall have a minimum height of ten (10) to twelve (12) feet with a minimum spread of six (6) to eight (8) feet; and,

iii) Fifty (50) percent shall have a minimum height of fourteen (14) feet with a minimum spread of eight (8) feet.

(iii) **Hedges.** The minimum height of hedge material varies from twenty four (24) inches in height to forty two (42) inches is height depending upon the combination of landscape elements chosen to achieve a minimum six (6) high opaque buffer. If a fence or wall is not proposed for a type (C) perimeter landscape area, the minimum height of the hedge shall be forty two (42) inches unless a berm is proposed. The height of a berm may be subtracted from the minimum height required for a hedge down to a minimum hedge height of twenty four (24) inches. At a minimum, all hedge materials shall comply with the minimum standards for hedges within perimeter buffers found in Sec. 7.3, Landscaping and buffering.

a) If a wall or fence is proposed, a minimum thirty (30) inch high hedge shall be planted, with plants spaced two (2) feet on center on both sides of the wall or fence.

(4) **Screen views of parking and development from road right-of-ways -Type (D) perimeter landscape area.** These perimeter landscape areas shall be provided around the perimeter of a Planned Development adjacent to road right-of-ways and shall separate pods internal to a planned development from adjacent road rights-of-way eighty (80) feet in width or greater. This landscape area shall provide trees and shrubs according to Table 6.8-3, Perimeter Landscape Area Regulations.

(5) **Provide an edge area of open space.** Edge areas shall be provided around the perimeter of a TND and between neighborhoods according to the requirements of Table 6.8-3, and Sec. 6.8-C.4.a.(5), Edge areas.

(6) **Development order condition.** A recommendation shall be made by PZB to the BCC in the form of a development order condition as to the required location and type of perimeter landscape areas based upon the site design and the compatibility of surrounding land uses. Applicants for modifications to previously approved planned developments which do not require BCC approval shall apply to the DRC for approval of the location and type of perimeter landscape area.

(7) **Design standards.** All perimeter landscape areas shall meet the following requirements:

(a) **Land use.** Perimeter landscape areas may be crossed by streets, and may support non-vehicular circulation systems and may be encroached upon by the following site features up to a maximum width of five (5) in width: water bodies, dry retention or other similar land uses which do not result in the removal or destruction of native plant or animal species or habitat. The minimum tree and shrub requirements shall be based on the entire surface area (length x width) of the perimeter landscape area including any of the encroachments listed above.

(b) **Landscape.** Perimeter landscape areas shall be landscaped in accordance with: the

requirements of this section, Table 6.8 -3, Sec. 7.3, Landscape and buffering; and, the individual Planned Development District regulations.

(c) **Building setbacks.** Residential setbacks shall be measured from the inside edge of the required perimeter landscape area. Nonresidential setbacks shall be measured from the property line.

(d) **Dedication.** The landowner shall receive written permission from PZB prior to any abandonment or modification of a perimeter landscape area. The following types of buffers shall be indicated on the plat or otherwise established by recordation with the County Clerk:

(i) Type (A) perimeter landscape areas shall be platted as a vegetation preservation tract and shall be dedicated for native vegetation protection; and,

(ii) The remaining types of perimeter landscape areas shall be dedicated for landscaping and buffering including the installation and maintenance of any structural landscape elements such as a wall, fence, berm, etc.

(e) **Fences or walls.** Fences or walls located within any perimeter landscape area may be required by the BCC in the form of a development order condition to provide openings to allow easy access for pedestrians, bicycles, and wildlife migration.

(f) **Easements.** Utility or drainage easements may cross a perimeter landscape area or edge area but shall not be located entirely within one. A maximum of five (5) feet of the width of a perimeter landscape area may contain a utility or drainage easement. The planting of any landscape material within this overlap shall comply with Sec. 6.5.H, Easement encroachment.

(g) **Perimeter landscape area width credits.**

(i) Perimeter landscape areas adjacent to existing required landscape buffers may receive a reduction in the minimum required width of a perimeter landscape area from the DRC. A perimeter landscape area may be reduced by one (1) foot in width for each one (1) foot if width of the existing buffer, up to a maximum of fifty (50%) percent of the perimeter landscape area width required by Table 6.8-3. Credit may also be granted for vertical elements within a perimeter landscape area by the DRC for existing buffer features such as fences or walls, (see Sec. 6.8-A.22.b.(3)(b)),

(ii) **Spatial separation.** A fifty (50%) credit may be granted for water bodies, canals, and other similar land uses which provide a spatial separation, but not necessarily a vertical buffer and have a minimum width of fifty (50) feet or greater. See Sec. 6.8.A.23.b.(3), Buffer incompatible land uses - Type (C) perimeter landscape area, for Type (C) spatial separation exemptions.

(h) **Native tree credits.** Native plant material that is preserved within perimeter landscape areas may be credited toward complying with the minimum planting requirements of Table 6.8-3. Perimeter landscape areas which receive credits for preserved vegetation shall comply with the maximum spacing requirements for landscaping in Table 6.8-3.

(i) **Circulation paths.** The construction of a circulation path within a type (B), (C), and (D) perimeter landscape area is encouraged to promote non-vehicular circulation. A minimum width of ten (10) feet shall be added to the minimum width (as required by Table 6.8-3) of a perimeter landscape area to accommodate the path's construction. The circulation path shall have a stabilized subsurface and shall be mulched or paved.

TABLE 6.8-3
PERIMETER LANDSCAPE AREA REGULATIONS

Perimeter Landscape Use	Minimum Width and Planting Requirements			Maximum Tree Spacing	Minimum Design Elements
	Width	Trees	Shrubs		
(A) Preservation or Mitigation of Native Vegetation	50'	1/400 s.f.	1/250 s.f.	40 LF*	-Native -Trees -Shrubs
(B) Open Space Corridor	20'	1/800 s.f. or 1 tree/ 40 LP	1/100 s.f.	60 LF	-Trees -Shrubs
(C) Incompatible Land Use Buffer	See Notes Below	1\300 s.f.	See Sec. 6.8-A.23.b.(3)	25 LF	-Trees -Shrubs -six (6') buffer
(D) Right of Way Buffers	ROW 15'- (0'-99') 20' - 100+	1/300 s.f.	1/50 s.f.	30 LF	-Trees -Shrubs
(E) Edge area Buffer	100'	1/800 s.f.	1/250 s.f.	60 LF	-Trees -Shrubs -six (6') buffer
(C) and (D) Parking areas along ROW	ROW 15' - (0' - 99') 20' - (100+)	1/300 s.f.	24" high planted 2' on center	40 LF	-Tree -Shrub

NOTES:

-LF (linear feet) - One (1) tree is required for each maximum amount of linear feet indicated in Table 6.8-3.

-A type (B) buffer shall provide one (1) tree for each eight hundred (800) square feet of area or the equivalent of one (1) tree for each forty (40) linear feet whichever results in the greater number of trees.

-A type (C) perimeter landscape area has a progressive minimum width according to the degree of density or height incompatibility between land use zones or land uses. The degree of incompatibility and the resulting minimum buffer width is determined by the two charts below. In cases of both a density and a height incompatibility, only the incompatibility resulting in the greater buffer width shall apply.

DEGREE OF DENSITY INCOMPATIBILITY

	DENSITY DIFFERENCE	
TYPE (C) MINIMUM BUFFER WIDTH	SAME UNIT CLASSIFICATION	DIFFERENT UNIT CLASSIFICATION
15'	5 du/ac.	3 du/ac.
20'	10 du/ac.	6 du/ac.
25'	15 du/ac.	9 du/ac.
30'	20 du/ac.	12 du/ac.
35'	25 du/ac.	15 du/ac.

Each difference in density equal to or greater than five (5 du/ac.) dwelling units per acre for the same unit classification or three (3 du/ac.) dwelling units per acre for a different unit classification (measured in 5 du/ac. or 3 du/ac. increments respectively) between the gross densities of abutting pods or land uses shall result in a five (5) feet increase in width to a type (C) buffer. Density differences falling between the measured increments indicated above shall not constitute an increase in minimum buffer width above the lower increment.

DEGREE OF BUILDING HEIGHT INCOMPATIBILITY

TYPE (C) MINIMUM BUFFER WIDTH	BUILDING HEIGHT DIFFERENCE
15'	2 stories or 14'
20'	4 stories or 28'
25'	6 stories or 42'
30'	8 stories or 56'
35'	10 stories or 70'

Each difference in story or height equal to or greater than two (2) stories or twenty eight (28) feet (measured in 2-story or 28 feet increments) between the maximum building height between the incompatible land uses or pods shall result in a five (5) feet increase in width to a type (C) buffer. Building height differences falling between the measured increments shall not constitute an increase in minimum buffer width above the lower increment. Increments of twenty eight feet only shall be used for buildings which are clerestory in design or otherwise do not have clearly discernable stories or floors.

-If the perimeter landscape area is not a type (C) or required to buffer parking areas from adjacent lots or road right-of-ways, shrubs may be planted in groups, with a maximum linear feet spacing of twenty five (25) feet between shrub groupings.

-A type (D) perimeter landscape area minimum width is determined by the width of the adjacent road right-of-way. A type (D) shall be a minimum width of fifteen (15) wide if adjacent to a road right-of-way of ninety nine (99) feet in width or smaller or shall be a minimum width of twenty (20) feet if adjacent to a road right-of-way of larger than ninety nine feet in width.

-A combination type (C) and type (D) perimeter landscape area is required along road right-of-ways in areas where common parking lots are proposed between the road right-of-way and buildings.

c. **Access and circulation.**

(1) Planned Development Districts shall have legal access and a minimum of two hundred (200) feet of frontage along an arterial or collector.

(2) Principal vehicular access points shall be designed to encourage smooth traffic flow and minimize hazards to vehicular or pedestrian traffic. Merging and turning lanes and traffic medians shall be required where existing or anticipated heavy traffic flows indicate needed controls.

(3) Minor streets within the development shall connect with minor streets in adjacent developments in such a way so as to encourage through traffic.

(4) Corner visibility triangles shall be maintained at all intersections.

(5) Access to the uses and circulation between buildings and other important project facilities for vehicular and pedestrian traffic shall be safe, comfortable and convenient for the users.

(6) Streets shall not be designed or constructed as to interfere with desirable drainage in or adjacent to the development.

(7) Arterial and collector streets whether public or private shall connect with similarly classified streets in adjacent developments. If no streets exist, the County Engineer shall determine whether future connections are likely and desirable and shall have the authority to alter the design according to the criteria established in Art. 8, Subdivision.

(8) Circulation systems (walking paths, bike paths or bike lanes, mass transit and vehicular access ways) shall be designed to connect and provide access between all land uses within and adjacent to planned developments.

(9) All road rights-of-way, pavement widths, locations and designs shall encourage pedestrian circulation and shall conform to the standards of the County, as adopted and as may be amended from time to time.

d. **Road improvements.** The Board of County Commissioners may condition Planned Developments to provide certain road improvements within the road right of way or elsewhere within a Planned Development District in addition to the land development improvements required for the subdivision or platting of land. These conditional improvements are intended to forward certain goals of the Comprehensive Plan such as: assuring the public health, safety and welfare; facilitating non-vehicular circulation; implementing the Linked Open Space Study and other applicable County programs; and improving the neighborhood aesthetics. (The Traditional Neighborhood Development District-TND requires the road improvements listed in this section for all TND districts.) These conditional road improvements may include, but are not limited to:

(1) **Street lighting.** Street lights a maximum of twenty five (25) feet in height shall be installed along all platted road right-of-ways with a platted width of thirty two (32) feet or greater. The street lights shall be sized and spaced to provide a minimum sidewalk and pavement illumination of point four (.4) foot-candles. The light fixture shall be designed to direct light away from residences and onto the sidewalk and street and shall comply with Sec.6.4, Outdoor lighting standards.

(2) **Median landscaping.** Median landscaping shall be provided within road right-of-ways designed with medians which are part of the County's Thoroughfare Plan and other roads adjacent to or penetrating the perimeter of the Planned Development which are designed with a median. These roads shall be landscaped at a minimum, with the following:

(a) **Permit.** As required by BCC condition and as stipulated below, the petitioner shall apply for a permit to the Palm Beach County Engineering and Public Works Department to landscape abutting road rights-of-way with median. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall consist of a minimum of one (1) fourteen (14) foot tall native tree for each thirty (30) linear feet of the adjacent median and appropriate ground cover. Trees may be planted singly or in clusters. All landscaping and maintenance shall be subject to the standards as set forth by Palm Beach County Engineering and Public Works Department. All landscape material shall be classified as drought tolerant or very drought tolerant as indicated in the latest South Florida Water Management District Xeriscape Manual.

All planting shall be done in accordance with detailed planting plans and specifications to be submitted and approved by the County Engineer concurrent with DRC certification of a preliminary development plan or a final site plan/final subdivision plan.

All required median landscaping, including watering, shall be the perpetual maintenance obligation of the petitioner and its successors, legal heirs or assignees, or duly established Property Owner's Association or Homeowner's Association.

Median landscaping shall be installed as required by BCC conditions and land development permits. If BCC conditions do not state a completion date for median landscaping, the landscaping shall be completed prior to the final release of the performance bonds for the road intended for the median landscaping. Median landscaping for roads within the development or roads which must be constructed as a condition of development, shall be installed concurrent with the construction of the road in which the landscaping will be located.

(3) **Street trees.** Shade trees a minimum of twelve (12) feet in height with a minimum spread of five (5) and a minimum clear trunk of five (5) feet shall be spaced an average distance of fifty (50) feet or less along both sides of the street within all platted road right of ways of thirty two (32) feet in width or greater. Palm trees may be used as street trees by complying with a minimum spacing requirement of forty (40) feet.

(4) **Street bike lanes.** Bike lanes may be required within the road right- of-ways which are part of the County's Thoroughfare Plan or within road right-of-ways which are adjacent to, or penetrate the perimeter of the Planned Development. The location, destination, and design specifications of street bike lanes shall be reviewed for approval by PZB and Engineering and Public Works prior to DRC certification and after approval by the BCC.

(5) **Underground utilities.** All utilities including telephone, television cable, and electrical systems shall be installed under the ground. Primary facilities providing service to the Planned Development District and high voltage wires may be exempted from this requirement by the Zoning Director. Large transformers shall be placed on the ground and contained within pad mounts, enclosures, or vaults. These utilities shall be landscaped with trees and hedges to provide compatibility and screening from adjacent uses.

Street cross sections commonly used for road construction may not provide sufficient width to accommodate these improvements. Therefore, design modifications to these road section widths shall be made as required and approved by the Engineering Department.

e. **Parking and loading.** Parking shall comply with Sec. 7.2, (Off-street parking regulations) and the parking and loading requirements of the applicable Planned Development District. If conflicts exist between the parking and loading regulations of each District and the regulations found elsewhere in the ULDC, the parking regulations of this section shall apply to the extent of the conflict. Parking areas shall be designed to accommodate pedestrian access points on the site and encourage the use of pedestrian circulation and a sharing of parking spaces.

f. **Garbage and refuse collection.**

(1) **Dumpsters.** Outdoor collection dumpsters shall be provided for garbage and trash removal when individual collection is not made and indoor storage is not provided.

(2) **Enclosure.** Outdoor collection dumpsters shall not be offensive and shall be enclosed by a fence or wall at least as high as the containers and in no case less than five (5) feet high on at least three (3) sides. A minimum two (2) high hedge, planted a minimum two (2) feet on center shall be planted along the fence or wall. The side of the station not fenced or walled shall be screened with a minimum five (5) feet high gate. Dry storage compactors or similar receptacles located beside loading areas shall be screened from adjacent road right-of-ways and residential land uses but are not required to install a hedge around the screening.

(3) **Access.** Access to indoor or outdoor collection dumpsters shall be designed to allow the removal of the dumpster contents in a safe and efficient manner.

g. **Environmentally sensitive lands and preserve areas.** Planned developments shall be designed to mitigate the negative impacts of development intensity and density away from sites designated "A" or "B" on the Inventory of Native Ecosystems map, as amended, Sec. 9.2, and sites designated as preserve areas according to Sec. 7.5, Vegetation Preservation and Protection. Proposed development shall not negatively impact the native ecosystem of these adjacent environmentally sensitive sites and shall comply with the criteria established in Art. 9 for Environmental Sensitive Lands and other applicable environmental ordinances. The applicant shall work in cooperation with the PZB and ERM to establish mutually acceptable alternatives to protect the environmentally sensitive lands, including but not limited to:

(1) **Prohibition.** The prohibition of certain land uses;

(2) **Buffer.** A reduction in the building intensity near environmentally sensitive land and preserve areas by the creation of a minimum fifty (50) feet buffer zone; or,

(3) **Clustering.** The clustering of development away from the environmentally sensitive lands or preserve areas; or,

(4) **Combination.** A combination of these alternatives.

Additionally, all efforts shall be made to minimize site alterations near environmentally sensitive lands and preserve areas.

h. **Landscaping.** Planned developments shall be landscaped and irrigated in accordance with Sec. 7.3, (Landscaping and buffering), the requirements of each District and the requirements listed below. The landscaping within a planned development shall be subject to extraordinary standards including:

(1) **Irrigation quality water.** The incorporation of irrigation quality water from wastewater treatment facilities, if available from the applicable Water Control District, for irrigation purposes. When this irrigation quality water is within five hundred (500) feet of the boundaries of a Planned Development District, any existing, developing or future land uses shall connect to the system, when approved by the applicable Water Control District;

(2) **Landscape standards.** Special use areas within a Planned Development District shall comply with the requirements of this section. Special use areas shall include street corridors (if required by a development order condition), pedestrian and bicycle pathways (located outside of road right-of-ways) and non-residential pods including, but not limited to, commercial, civic, industrial and recreation areas. The landscaping for special use areas shall comply with the following standards:

(a) **Drought tolerance.** A minimum of seventy-five (75%) percent of the required landscape plantings of trees, shrubs and groundcovers shall be listed as drought tolerant or very drought tolerant in the South Florida Water Management District's latest approved Xeriscape Plant Guide.

(b) **Criteria.** Trees shall meet the following requirements:

(i) **Exceed minimum landscape requirements.** Exceed minimum landscape requirements of standard Zoning Districts for size, height and canopy spread by twenty (20%) percent (perimeter landscape area spacing requirements are found in Table 6.8-3); and

(ii) **Native species.** Be seventy-five (75%) percent native species, drought tolerant species or very drought tolerant species as listed in the latest South Florida Water Management District Xeriscape Manual;

(iii) **Minimum trunk diameter.** Provide a minimum trunk diameter of 3.0 inches measured at 4.5 feet above grade.

i. **Signage.** All signage within Planned Developments shall comply with the requirements of Sec. 7.14, Signage.

j. **Environmental preservation.** All Planned Developments shall comply with the requirements of Sec. 7.5, Vegetation Preservation and Protection and other applicable County, State and Federal environmental regulations.

[Ord. No. 93-4] [Ord. No. 95-8] [Ord. No. 95-13] [Ord. No. 95-24]
[Ord. No. 93-4; February 2, 1993] [Ord. No. 95-8; March 21, 1995] [Ord. No. 95-13; April 18, 1995]
[Ord. No. 95-8; July 11, 1995]

B. PUD, Residential Planned Unit Development District.

1. **Purpose and intent.** The purpose of the PUD district is to offer a residential development alternative which provides a complete living environment consisting of a range of living opportunities, recreation and civic uses and a limited amount of commercial uses. Residential PUDs shall correspond to a range of land uses in the Comprehensive Plan.

   The intent of the PUD is to promote the design of largely residential living environments which provide enlightened and imaginative approaches to community planning and shelter design. These approaches include but are not limited to:

   a. The preservation of natural features and scenic areas;

   b. The integration and connection of land uses with perimeter landscape areas which provide vegetation preservation, buffering, and circulation areas;

   c. The creation of a continuous non-vehicular circulation system;

   d. The establishment of private civic and or public civic and recreation uses to serve the PUD.

   e. Provide for a limited amount of commercial uses to serve the residents of the PUD.

   f. Provide for efficient use of land and public resources by co-locating harmonious uses to share civic uses and public facilities and services for the residents of Palm Beach County.

   g. The reduction of land consumption by roads and other impervious surface areas; and,

   h. The provision for flexible property development regulations to promote innovative and quality site design.

2. **Applicability.** The requirements of this section, Sec. 6.8-A.2, Applicability and Sec. 1.5, Exemptions: Effect of code on previously approved development orders, shall apply to all PUD districts and PUD special exceptions, whether new or amended, within unincorporated Palm Beach County. In cases of conflict between this section and other sections of the ULDC, the provisions of this section shall apply to the extent of the conflict.

3. **Previous approvals.** Modifications to previously approved PUD special exceptions shall be consistent with the character of the land uses approved for the area and shall comply with the following regulations:

   a. **Modification of PUD special exceptions.** Requests for modifications to PUD special exceptions shall comply with Sec. 1.5, Exemptions and Effect of Code and Amendments on Previously Approved Development Orders; and,

   b. **Modification of planned development zoning conditions.** Requests for modifications of planned development zoning conditions shall comply with the application and procedural requirements of Sec. 6.8-A., Planned Development District Regulations.

4. **Application.** The applicant shall provide a Preliminary Development Plan, a Regulating Plan, a Justification Report, and other information as required by PZB for processing a rezoning, rezoning amendment OR BCC modification to an existing PUD special exception. These documents shall demonstrate compliance with Sec. 6.8, Planned Development District Regulations, and this section.

   a. **Preliminary Development Plan.** A PUD shall be governed by a Preliminary Development Plan approved by the BCC which illustrates, in a graphic, written and tabular form, the density, intensity and conceptual design of the PUD. The requirements of a Preliminary Development Plan are found below, in Sec. 6.8.A.8, Contents of application, and the rezoning application form.

      (1) **Minimum thresholds.** A PUD shall meet the following minimum acreage or minimum number of dwelling units threshold as indicated in Table 6.8-4, below. The minimum thresholds for a PUD may vary according to a particular site's designation on the Comprehensive Plan Land Use Atlas.

TABLE 6.8-4
PUD MINIMUM THRESHOLDS

Land Use Category	Minimum Acreage	Minimum Number Of Dwelling Units
AGR	40	Not Applicable
RR 10	40	Not Applicable
LR 1	30	30
LR 2	30	60
LR 3	30	90
MR 5	20	100
HR 8	10	80
HR 12	10	120
HR 18	10	180

Legend:
Comprehensive Plan Land Use Categories

AGR - Agricultural Reserve
RR 10 - Rural Residential 10
LR 1 - Low Residential 1
LR 2 - Low Residential 2
LR 3 - Low Residential 3
MR 5 - Medium Residential 5
HR 8 - High Residential 8
HR 12 - High Residential 12
HR 18 - High Residential 18

Notes for Table 6.8-4:

- All PUDs shall comply with either the minimum acreage threshold or the minimum number of dwelling units threshold listed above for the applicable Comprehensive Plan Land Use Category. PUDs within the AGR or the RR 10 Land Use Category shall comply with the minimum acreage requirement in Table 6.8-4, above. PUDs within the AGR Land Use Category shall comply with the special development criteria as set forth in this section and in the Comprehensive Plan.

- PUDs may have a gross area less than the minimum acreage threshold listed above by receiving bonus density through a Comprehensive Plan density program.

(a) **Agricultural Reserve (AGR) land use category.** The minimum threshold of a PUD located in the AGR land use category shall be forty (40) acres pending the results of a study of the long-term viability of agriculture within this area. The results of this study may require the revision of policies and regulations in the ULDC. Until such time as the study is complete, PUDs shall not be developed within this land use category.

(b) **Design requirements for PUDs within the AGR land use category.** The net buildable area, excluding streets, of a PUD within the AGR land use category shall be grouped in one (1) contiguous parcel and shall not exceed twenty (20) percent of the gross acreage of the PUD. The remaining area of the PUD shall be maintained in agricultural uses or recreational, preservation, or other types of open space uses.

(i) **Cluster requirements in AR designation.** In the Agricultural Reserve (AR) land use designation, a PUD's net buildable area, excluding streets, shall be clustered in one contiguous part of the parcel and shall not exceed twenty (20) percent of the gross acreage of the PUD. The remaining area of the PUD shall be maintained in bona fide agricultural uses or recreational, preservation or other types of open space uses.

(2) **Contiguous land.** Land may be added to a PUD provided the land is contiguous and the resulting PUD meets the intent of Sec. 6.8, Planned Development District Regulations, and this section.

(3) **Density.** Table 6.8-1, Planned Development District Densities and Corresponding Land Use Categories, indicates the minimum density, standard density, the planned development density, and the land use categories which correspond to a PUD. Additional density requirements are listed in Sec. 6.8-A.3, Residential density and land use categories.

(4) **Pods.** A PUD allows a limited amount of flexibility in establishing the proper amounts of pods. The land area of pods may vary for each PUD depending upon the findings of Sec. 6.8.B.4.c, Land use justification report, the amount of BCC approved dwelling units, the land use requirements provided in Table 6.8-4, PUD Mix of Land Uses, and the requirements listed below:

(a) **Design intent.** PUDs shall be designed to:

(i) Be a predominantly residential district;

(ii) Provide a continuous non-vehicular circulation system for pedestrians and non-motorized vehicles;

(iii) Provide perimeter landscape areas to connect or buffer land uses within and outside the perimeter of the PUD;

(iv) May offer limited commercial uses for the population of the PUD;
(v) Establish neighborhood character and identity; and,
(vi) Preserve the natural environment.
(vii) Provide incentives for public civic uses to reduce public capital improvements and expenditures by encouraging joint acquisition, development and operation of publicly owned and operated facilities to serve residents of the PUD and Palm Beach County.
(viii) Provide incentives for private civic uses offering services typically provided by the public to reduce public capital improvements and expenditures by allowing joint acquisition, development and operation of facilities to serve residents of the PUD and Palm Beach County.

(b) **Land use mix percentages.** The applicant shall provide a mix of land uses by designating pods of a PUD as residential, commercial, civic (private), civic (public), or recreation pod, on the Preliminary Development Plan. The percentages in Figure 6.8-4 indicate the ranges of each pod allowed within a PUD.

(c) **Other land use designations.** The acreage for open space tracts, water management tracts, rights-of-way and perimeter landscape areas shall be provided on the preliminary development plan.

(d) **Land use percentage calculations.** General land use percentages (Residential, Civic, Commercial and Recreation) shall be calculated based on the gross area of the PUD, except as provided in Sec. 6.8.B.4.a.(4).(e) below. Recreation uses, lakes and local roads which are internal to a residential pod rather than a separate pod or tract may be credited toward the minimum sixty (60%) residential land area requirement as identified in Figure 6.8-4.

Figure 6.8-4
PUD MIX OF LAND USES

General pods	Minimum	Maximum
1. Residential	**60%**	**–**
2. Civic	**2%**	**–**
3. Commercial	**0**	**per capita based on population**
4. Recreation	**110 s.f. area/person See Sec. 6.8-B.6.a.(1)**	**–**

(5) **Special Provisions for the designation of Civic Pods which uses benefit the public.** The Board of County Commissioners may permit the land area allocated to public civic uses or private civic uses to be deleted from the gross acreage of the PUD when determining the residential land use percentage. Such reduction may occur if an explicit public benefit is demonstrated meeting the criteria in this subsection.

The applicant may include with a submittal of a rezoning application a request to exclude the public civic or private civic acreage from the gross acreage of the PUD. The justification

statement, required in accordance with Sec. 6.8.B.4.c shall clearly demonstrate an explicit public benefit and meet the criteria herein.

Prior to certification of an application, the Zoning Director may obtain confirmation from the Board of County Commissioners that the justification and proposed mix of land uses meets the applicable criteria. The Board of County Commissioners shall make a finding of fact supported by substantial competent evidence that the criteria has been satisfied.

(a) **Evaluation Criteria.** Public civic sites shall meet criteria a-f below. Private civic sites shall meet criteria b-g below.

(i) There is a reduced cost to the public for site acquisition, development or operation of civic uses;

(ii) Public civic or private civic uses required to provide services to meet recreational, fire rescue or mass transit concurrency requirements in accordance with Chapter 163, Florida Statutes or accommodate impacts of development on educational facilities such as schools, or regional libraries;

(iii) The proposed civic use shall fulfill a direct service and immediate need, as projected in the County's capital improvement element or, if applicable, further the County's goal to provide adequate primary and secondary education facilities.

(iv) Land uses within the PUD shall be located and designed to be compatible with surrounding land uses both internal and external to the PUD.

(v) The resulting mix of land uses further the goals to integrate and share facilities, thereby encouraging efficient use of land and reduction in use of public funding sources;

(vi) The residents of the PUD can directly benefit from the location and layout of the civic use and the civic use satisfies the design criteria in Sec. 6.8.A. and 6.8.B.

(vii) Private civic uses which provide education in accordance with Chapter 623, Florida Statutes.

(b) **Maximum Civic Land Area Percentage.** The maximum percentage of civic pods to gross area of the PUD shall not exceed sixty-five percent (65%).

(c) **Density calculations.** Density for the PUD may be calculated on the gross acreage of the PUD in accordance with 6.8.A.3.a.1. of this code.

(d) **Commercial pod.** PUDs have the option of providing limited commercial service, retail and professional office uses for the PUD's population, if these uses are supported in Land use justification report as provided in Sec. 6.8.B.4.c.

(6) **Perimeter landscape areas.** Perimeter landscape areas shall be part of a network of connecting open space corridors which comply with Sec. 6.8-A.23.b, (Perimeter landscape and edge areas), and the requirements listed below:

(a) **Required locations.** A perimeter landscape area shall be provided around the entire perimeter of a PUD. A perimeter landscape area shall also be located between incompatible land uses and pods within the PUD. The width, planting requirement, and type of perimeter landscape areas provided within a PUD shall be as determined in Sec. 6.8-A.23.b, and below.

(b) **Type (C) perimeter landscape area.** A type (C) perimeter landscape area is required to buffer incompatible pods and land uses. The portion of a perimeter landscape area required to be a Type (C) depends upon the compatibility of the surrounding land uses and the design of the pods. Commercial land uses and private and public civic land uses (excluding parks or recreation areas) shall be buffered from surrounding residential development by a Type (C) perimeter landscape area. A recommendation shall be made

by PZB to the BCC as a development order condition as to the type and the location of perimeter landscape areas based on the surrounding land uses, Sec. 6.8-A.23.b.), the proposed site design and Table 6.8-3, Perimeter Landscape Area Regulations.

(7) **Design criteria.** PUDs shall comply with the following objectives and requirements, in addition to those specified in Sec. 6.8.A.23 (Design Objectives).

(a) **Commercial pod.** A commercial pod shall be designed for the convenience and service of the PUD's residents. The architectural design criteria of Sec. 6.6.C (Architectural Compatibility Standards) and the locational criteria of Sec. 6.8-B shall apply to all non-residential development within a commercial pod.

(b) **Pedestrian orientation and scale.** PUDs shall be pedestrian oriented and developed at a human scale:

(i) **Size and shape.** PUD residential pods with a designation of medium density or high density shall be limited in size and shape to allow residents to walk along a continuous non-vehicular circulation system to one (1) or more of the following land uses in 1,320 feet or less: recreational, civic (public or private) or commercial uses . This requirement shall be met by ninety five (95%) percent of the housing units within the PUD.

(ii) **Connections.** A PUD's residences, shopping, civic and recreational uses shall be connected by a continuous circulation system. Each residential unit and non-residential land use shall have access to this continuous non-vehicular circulation system.

(c) **Range of housing.** PUDs in excess of 75 acres and 300 dwelling units shall provide a minimum of two housing types to offer a range of housing opportunities within the development to people of different social and economic backgrounds. The housing types shall include but not be limited to: single family; zero lot line; townhouse; multiple family; or congregate living facility.

(d) **Circulation system.** PUDs shall be designed with a circulation system based upon a hierarchy of transportation methods, including but not limited to, pedestrian, cyclist, mass transit and automobile. At points of intersection between these circulation systems, the hierarchy shall consider pedestrians as the most important, followed by cyclists, mass transit and automobiles. This system shall be designed to connect and provide access between land uses within the PUD and to link with systems in the surrounding communities by providing:

(i) Pedestrian and bicycle pathway systems, including but not limited to, sidewalks or pedestrian paths, or bicycle lanes or bicycle paths and driveways; and,

(ii) Parking areas for multiple commercial or civic uses (two or more uses) shall be designed to encourage the pedestrian nature of the community by facilitating a reduction in parking through a sharing of spaces.

b. Regulating plan. All initial Planned Development District rezoning and certain amendments to PUD Districts shall provide a Regulating plan in accordance with Sec. 6.8.A.8.f, Regulating Plan, including but not limited to the following:

(1) **Land use mix.** Calculations of the land use mix in accordance with Sec. 6.8.B.4.a.(4) of this Code.

(2) **Flexible regulations.** The applicant may request to deviate from certain property development regulations (specifically indicated as flexible regulations) within Table 6.8 - 6, Property Development Regulations.

(3) **Transportation.** Transportation program;
(4) **Street and pathway.** Street and pathway cross-sections and,

See Sec. 6.8-A.8.e, Regulating plan, for the specific requirements for flexible regulations, transportation programs and street and pathway cross-sections.

c. **Land use justification report.** A land use justification report shall be provided to justify and explain the mix of commercial, recreational, public and private civic land uses proposed and describe the methods used to calculate this percentage, including the raw data used (the assumptions made for proposed population counts), the analysis procedures and the resulting land acreage and building square footages. The justification report shall also address the amount, if any, of affordable housing proposed and the following:

(1) **Land use in relationship to population.** The maximum amount of commercial square footage and land area and the minimum amount of recreational land area or site improvements, shall be calculated based on the projected population of the PUD. See Sec. 6.8.B, below; and,
(2) **Recreation areas.** PUDs shall designate areas on the Preliminary Development Plan for recreation by providing parks or recreation areas;
(a) **Recreation report.** A report shall detail the passive and active recreation provided for the population of the PUD and shall be submitted as part of the justification report. This report shall include, but is not limited to:
(i) The types of passive recreation proposed and a total acreage amount;
(ii) The types of active recreation proposed including a list and cost estimation of site improvements and a total acreage amount;
(iii) The methodology used to calculate the minimum amount of recreation required based on population and the following:
1) The requirements of Sec. 7.12, Park and recreation standards; and,
2) The requirements of this section.

In cases of conflict between the recreation requirements of the sections listed above, the stricter regulation shall apply to the extent of the conflict.
(iv) The proposed connections (bike lanes, pedestrian paths, etc.) used to connect land uses and pods.

5. **Administration.**

a. **Conditions of approval.** The BCC may impose conditions of approval upon the development order to assure the intent of this section is satisfied and that the public health, safety and welfare are provided, see Sec. 6.8-A.13.c., Conditions.

b. **Development Review Committee (DRC) approval.** Prior to Zoning Commissions and following approval by the BCC, the Preliminary Development Plan, regulating plan, and justification report shall be submitted for review and certification by the DRC according to Art.5, Development Review Procedures and Sec. 6.8-A.15., Development Review Committee (DRC) approval.

c. **Phasing controls and platting.** Each PUD shall be subject to the time limitation and review requirements of Sec. 5.8 (Compliance with time limitations) and Sec. 6.8.A.20 (Phasing controls and platting) and shall proceed in a reasonably continuous and timely manner complying with these phasing requirements and the requirements listed below:

(1) **Commercial uses.** No building permit for commercial uses shall be submitted until building permit approval of at least twenty (20) percent or more of the total approved dwelling units for the PUD has been issued unless allowed by development order condition.

(2) **Recreation areas and parks.** See Sec. 7.12, Park and recreation standards for recreation phasing requirements.

d. **Property owners association.** Concurrent with the first recorded plat a property owners association shall be formed to manage the common areas and guide the growth of a PUD.

6. **Land Uses.** Land uses are allowed in accordance with Table 6.8 - 2 (Planned Development District Use Regulations Schedule). This table indicates the general pods and the corresponding land uses, unless otherwise restricted by conditions included in the development order. The proposed land uses and pods shall be subject to the following provisions.

a. **Pods.** A PUD shall be divided into one (1) of the following pods to indicate the land uses proposed within the district.

(1) **Recreation.** Recreation land uses shall include parks and recreation areas. The size, location and site improvements for recreation areas shall be graphically designated on all PUD Preliminary Development Plans. The minimum amount of recreation area provided within a PUD (a minimum of one hundred and ten (110) gross square feet of lot area per person) shall be based on the total population of the BCC approved Preliminary Development Plan. Recreation areas for previously approved planned developments shall be provided at one hundred and ten (110) gross square feet or lot area per person for the total population of any areas being site planned, except for previously platted pods which have met the recreation requirements of the previous subdivision code. Also, a continuous non-vehicular internal circulation system shall connect land uses and pods within the PUD and shall connect with land uses in the surrounding communities. This circulation system shall include, but not be limited to pedestrian paths or sidewalks, bicycle paths or bicycle lanes and driveways to encourage pedestrian access and non-vehicular circulation.

(a) **Recreation uses.** Recreational site improvements shall be provided in a PUD according to the requirements of Sec. 7.12, Park and Recreation Standards.

(b) **Neighborhood parks.** In addition to the requirements of Sec. 7.12, Park and Recreation Standards, a PUD may provide neighborhood parks which are mostly passive in nature.

(c) **Parking.** Parking is not required for recreation areas which meet the definition of recreation facility in Sec. 3.2, Definitions, and are less than two (2) acres in size. Other recreation facilities shall provide parking in accordance with Sec. 7.2, Off-street parking and loading.

(d) **Pedestrian circulation.** All recreation areas and neighborhood parks shall provide a continuous sidewalk or other pedestrian path approved by PZB which connects site improvements (pool, hard surface courts, benches, etc.) to the surrounding PUD's continuous non-vehicular circulation system;

(2) **Civic pod.** The Civic pod is intended to promote a coordinated land planning approach for providing and encouraging publicly and privately owned land uses to serve the community. It should be understood that the civic land use requirements contained herein, shall in no way alter, diminish, or increase those obligatory conditions which were made prior to the adoption of this code.

A minimum of two (2%) percent of the gross area of the PUD shall be designated on the Preliminary Development Plan as either a Public civic pod or a Private civic pod as indicated below:

(a) **Publicly owned civic land uses.** A portion of a PUD may be required to be conveyed in fee simple title to the BCC for civic purposes in response to an increase in services or other impacts required concurrent with the development of the PUD or by a voluntary commitment by the applicant.

(i) **Conveyances.** These conveyances shall be in the form as provided by BCC conditions, or as indicated in the development agreement for a project in accordance with Ord. 91-16, "Palm Beach County Development Agreement Ordinance" as may be amended, and shall meet the Facilities Planning, Design and Construction Department's requirements for civic land acquisition. Conveyance of land for civic sites shall not include land utilized for dry or wet retention for land uses located outside of the civic site; or

(ii) **Land uses.** Publicly owned civic lots shall consist of land uses which are required to provide services to meet Concurrency requirements such as, but not limited to, regional parks, water treatment facilities and fire stations, and services required to mitigate other impacts of the development to service providers such as, but not limited to, public schools or libraries.

(iii) **Service providers.** The civic dedications for service providers shall be mutually agreed upon by the petitioner and the Facilities Planning Design and Construction Department.

(iv) **Location.** Civic lot locations shall be mutually agreed upon by the petitioner and the Facilities Planning Design and Construction Department.

(v) **Property development regulations.** Civic uses shall comply with the regulations in this section and Table 6.8-6, PUD Property Development Regulations. Publicly owned civic lots may be exempted from certain property development regulations, if the regulation is determined by the Zoning Director to be detrimental to the proper functioning of the civic use.

(b) **Privately owned civic uses.** Private Civic lots shall consist of land uses which: provide services to the PUD residents or fulfill recreational or educational needs for the residents of Palm Beach County; are customarily privately owned and operated; or are customarily allowed in residential zoning districts, such as but not limited to, private schools or libraries, day care centers, churches, temples, and property owner association meeting areas and resident storage areas for boats, buses, recreational vehicles, etc., see Table 6.8-2, Planned Development Use Regulations Schedule.

(i) **Land designation option.** A PUD shall provide or may have the option of providing Private Civic uses depending upon the amount of area dedicated for Public Civic uses or a Public Civic equivalent as determined by the Facilities, Planning, Design and Construction Department.

A PUD shall provide Private Civic uses if all of the following circumstances exist:

a) Less than two (2%) percent of the gross area of the PUD is required as Public Civic uses or equivalent after complying with the Public Civic requirements listed above; and,

b) The PUD is approved by the BCC to support a population (2.4 x total dwelling units) of four hundred (400) people or greater.

(ii) **Minimum land designation.** At a minimum, the difference in land area between the overall minimum civic land area requirement of two (2%) percent for the PUD and the land area amount of Public Civic or equivalent dedicated above, shall be indicated as Private Civic land area on the Preliminary Development Plan.

(3) **Residential Pod.** The residential pod is intended to provide dwelling units for residential occupancy. The gross density (of the pod), number of dwelling units, housing type and housing classification shall be indicated for each pod on the Preliminary Development Plan or Master Plan. Pods may contain different housing types and housing classifications, however specific tabular information concerning each housing type and each housing classification (number of dwelling units of each type or classification) shall be indicated on the Preliminary Development Plan or Master Plan for each pod.

(4) **Optional Residential (OR) pod.** An Optional Residential pods is intended to encourage innovative residential development techniques while providing adequate yards (open space around dwelling units), recreation, privacy, property maintenance, parking, and access to housing. An applicant may request the BCC to add an overlay designation of Optional Residential to any residential area on the Preliminary Development Plan. The permitted density within an (OR) pod shall be in accordance with the density of the underlying residential pod indicated on the Preliminary Development Plan. A Final Site Plan/Final Subdivision Plan of the pod requested for an (OR) land use designation shall be submitted concurrent with the request to designate an (OR) on the Preliminary Development Plan (OR) pods shall comply with the following requirements:

(a) **(OR) pods.** (OR) pods shall comply with the minimum design specifications indicated in Table 6.8-6, PUD Property Development Regulations;

(b) **Justification report.** BCC applications for Optional Residential pods include submittal of a justification report which explains how the project will function and shall justify how the living environment resulting from the proposed site design complies with the intent of the Optional Residential pod. Justification reports shall include the following:

(i) A written report which details how the proposed site design complies with the intent of the Optional Residential pod; and,

(ii) Conceptual graphics (site plans, sections, elevations, perspectives, etc.) indicating how the site design functions with regard to: yards (open space around dwelling units), outside living areas, privacy between dwelling units, property maintenance, parking, access to housing, recreation and public health, safety and welfare.

(c) **Review.** The BCC may approve, approve with site design amendments, or deny the optional residential designation based on compliance with Table 6.8-6, (PUD Property Development Regulations) and the justification report.

(d) **Intent towards Sec. 5.7, Variances.** The Optional Residential pod designation is not intended to take the place of a variance. Optional Residential pods shall only be granted for an entire, largely undeveloped, residential pod and shall not be granted on a lot by lot basis.

(5) **Commercial pod.** The commercial pod is intended to provide land uses, including but not limited to, commercial service, retail, and professional office uses of a community nature to serve the population of the PUD.

(a) **Location**. Commercial areas shall be located and designed for the convenience of the PUD's residents. A continuous non-vehicular circulation system shall provide convenient access from the residential housing to the land uses within a commercial pod. Vehicular access to commercial facilities shall not be permitted from an arterial or collector that is not part of the interior circulation system of the PUD. No commercial facility shall maintain frontage, visibility or direct physical access to any arterial or collector bordering or traversing the PUD.

(6) **Architectural design.** The architectural design criteria of Sec. 6.6.D (Architectural Compatibility Standards) shall apply to all non-residential development within commercially designated areas.

(a) **Area calculation**. The maximum area and square footage of the commercial pod shall be based on the following:

(i) **Land area.** The maximum commercial land area for a PUD is calculated based on the population of the dwelling units approved on the Preliminary Development Plan by the BCC in relation to the chart below; and,

TABLE 6.8-5
PUD COMMERCIAL ACREAGE

Population	Maximum Commercial Acreage	Gross Floor Area*
Less than 1,000	None	None
1,001 to 1,740	One (1) acre	8,759 to 15,225
1,741 to 2,990	Two (2) acres	15,234 to 26,163
2,991 to 4,970	Three (3) acres	26,171 to 43,488
4,971 to 6,970	Five (5) acres	43,496 to 60,988
6,971 to 9,950	Seven (7) acres	60,996 to 87,063
9,951 to 15,000	Ten (10) acres	87,071 to 131,250
15,001 to 26,000	Fifteen (15) acres	131,259 to 228,690

NOTES to Table 6.8-5:

* Buildable commercial gross floor area may vary depending upon lot configuration, site design, and compliance with other property development regulations, including but not limited to, vegetation preservation, building setbacks, landscaping and parking.

- The calculation of the maximum commercial lot area and gross commercial floor area for PUDs with a residential population exceeding twenty six thousand (26,000) people shall be determined by PZB on a case by case basis.

- Existing PUD special exception which show an amount of commercial acreage on a previously approved master or site plan, as provided in Sec. 1.5 of this Code, may develop the commercial acreage in compliance with Table 6.8-6, PUD Property Development Regulations.

(ii) **Building area.** The maximum commercial building area is calculated by multiplying the projected population of the PUD, (dwelling units x 2.4), by the constant (8.75) which equals the total amount of commercial gross square footage permitted for the PUD.

(b) **Hours of operation.** Commercial uses within three hundred (300) feet of residential housing shall not commence business activities (including delivery and stocking operations) prior to 6:00 a.m. nor continue activities later than 11:00 p.m. Commercial lots greater than three (300) feet from residential housing may be exempt from this hours of operation requirement unless required by a development order condition.

(7) **Mixed-use pod.** PUDs with a BCC approved contiguous commercial area of five (5) acres or larger may apply to the Development Review Committee to establish a mixed-use pod. The designation of a mixed-use pod in a PUD without the minimum commercial acreage stated above, shall require approval by the BCC. The land uses allowed within the mixed-use pod shall comply with Table 6.8-2, Planned Development Use Regulations Schedule for a MXPD with a Commercial Low land use designation.

b. Supplementary use standards. The standards of Sec. 6.4.D (Supplementary Use Regulations) and the standards listed below shall apply within the PUD, unless specifically waived or modified by the terms of the development order for the PUD.

(1) **Commercial pod.** Land uses within a commercial pod shall comply with the following standards:

(a) **Enclosed uses.** All uses, other than incidental storage of merchandise, shall be operated entirely within enclosed buildings, with the exceptions listed in Sec. 6.5.K (District Specific Regulations) for the CN, CLO and CC districts and a convenience store with gas sales.

(b) **Open storage.** No outdoor storage or placement of any material, refuse equipment or debris shall be permitted unless in an area designated on a Final Site Plan/Final Subdivision Plan which has been approved by PZB. Outdoor storage of merchandise shall be permitted only when incidental to the commercial use located on the premises, subject to the following standards:

(i) The storage area shall not be located in any of the required building setbacks;

(ii) The storage area shall be completely screened from view of adjacent road rights of way and property lines; and,

(iii) The stored merchandise shall not protrude above the height of the screening walls, fences or buildings.

(c) **Outdoor speakers.** No outdoor loudspeaker systems shall be permitted within five hundred (500) feet of residential housing.

(d) **Rooftop screening.** All roof-top mechanical and electrical equipment shall be screened so as not to be visible from adjacent land uses of an equal or lesser height. The screen shall be opaque and extend from the roof of the building to a minimum of six (6) inches above the height of the object intended for screening.

(2) **Residential pods.** Land uses within a residential pod shall comply with the following standards:

(a) **Accessory uses and structures**. Residential or commercial construction permits shall not be issued for a project until a Preliminary Development Plan or master plan has been approved by the Development Review Committee and a final plat for the entire development or phase of development has been recorded as a plat of record.

However, permits for real estate sales offices and sales models may be issued prior to recording a final plat but not before a final site plan/final subdivision plan is approved by the Development Review Committee.

The following accessory uses in permanent or temporary structures shall be permitted in a PUD according to the following standards.

(i) **Permanent structures.**

1) **Real estate sales office**. A real estate sales office shall be permitted in the commercial pod indicated on the Preliminary Development Plan and subject to the property development regulations for commercial uses pursuant to Table 6.8-6, PUD Property Development Regulations. A temporary real estate sales and management office within a mobile home outside of a commercial pod shall comply with the requirements of Sec. 6.6, (Temporary structures).

2) **Sales Models**. Sales models shall be permitted if erected on the site pursuant to all applicable codes and ordinances. However, the executive director or director of PZ&B may temporarily waive a property development regulation to facilitate the use of the building as a sales model. Prior to the issuance of a final certificate of occupancy, the sales model shall comply with all applicable property development regulations. The number of sales models shall not exceed eight (8) in number, per pod. One of the sales models may be used for a temporary real estate office if sanitary facilities are approved by the appropriate government agencies. A minimum of eight (8) parking spaces shall be provided. The parking area shall be designed in accordance with Sec. 7.2, Off-street parking regulations, however, pavement, shellrock, or mulch may be utilized in the parking area with a stabilized subgrade. Sales models, including dry models, may be constructed prior to platting.

3) **Gatehouses**. Gatehouses for internal project security shall be permitted if not in conflict with right-of-way and setback requirements of this Code and the Palm Beach County Thoroughfare Plan.

4) **Utilities**. Public or private utilities and accessory buildings and structures shall be permitted, subject to compliance with all applicable rules and regulations governing such facilities.

(ii) **Temporary structures**. Temporary structures shall be permitted in accordance with Sec. 6.6, Temporary structures.

7. **Property development regulations**. The property development regulations within a PUD shall be as indicated in Table 6.8 - 6, Property Development Regulations, unless otherwise specifically provided on the approved Preliminary Development Plan, in the development order or as listed below. Any of the pods or housing types listed below may apply to use flexible property development regulations for minimum lot dimensions, and side and rear setbacks based on compliance with Sec. 6.8 - A.7.e, Regulating plan.

   a. **Residential pods.** Residential pods shall follow the property development regulations as indicated by housing type below:

      (1) **Single family.** Single family development shall be subject to the property development regulations specified in Sec. 6.5 (Property Development Regulations) for the Residential Single Family (RS) Zoning District.
      (2) **Multiple family.** Multiple family development shall be subject to the property development regulations specified in Sec. 6.5 (Property Development Regulations) for the (RH) Multiple Family Residential District (high density) Zoning District.
      (3) **Zero lot line.** Zero lot line developments shall be subject to the property development regulations specified in Sec. 6.4.D (Supplementary Use Regulations-Zero lot line); and,
      (4) **Townhouse.** Townhouse developments shall be subject to the property development regulations specified in Sec. 6.4.D (Supplementary Use Regulations-Townhouse).

   b. **Civic (Public and private).** Development within this pod shall be subject to the requirements of Table 6.8 - 6, PUD Property Development Regulations.

   c. **Commercial.** Development within this pod shall be subject to the requirements of Table 6.8 - 6, PUD Property Development Regulations.

   d. **Mixed-use pod.** Development within this pod shall be subject to the following requirements of Sec. 6.8-E, MXPD:

      (1) Sec. 6.8-E.1, concerning purpose and intent. The site design and land uses of a Mixed-use pod shall comply with the purpose and intent of the MXPD district;
      (2) Sec. 6.8-E.3.a.(4)-(6), for pods, perimeter landscape areas, and design criteria;
      (3) Sec. 6.8-E.5, (entire section), for land uses; and,
      (4) Sec. 6.8-E.6 (entire section), for property development regulations.

TABLE 6.8-6
PUD PROPERTY DEVELOPMENT REGULATIONS

Housing Type or Pod	Minimum Lot Dimensions*			Maximum FAR	Maximum Building Coverage	Minimum Building* Setbacks or Separations			
	Size	Width and frontage	Depth			Front	Side*	Street	Rear*
Optional Residential	-	-	-	-	-	25' 10'[1]	15'	20'	20'
Civic (Public or Private)	1 ac.- Pb. 21,500 sf - Pv.	100'	200'	.35	.30	25'	C - 20' R - 40'	25'	C - 20' R - 40'
Commercial	1 ac.	100'	200'	.25	.20	25'	C - 20' R - 40'	25'	C - 20' R - 40'
Recreation (Sec.7.12) and Neighborhood Parks	4,300 sf	65'	60'	.25	.25	25'	15'	25'	15'

NOTES to Table 6.8-6:

C = Indicates the building setback if the lot abuts a non-residentially zoned or designated lot.

R = Indicates the building setback if the lot abuts a residentially zoned or designated lot.

* = Indicates that the property development regulation is flexible and may be modified by complying with Sec. 6.8.A.8.e.(1), Regulating plan. Single family, multiple family, townhouse and zero lot line housing may request flexible regulation for minimum lot dimensions and side and rear building setbacks by applying to DRC as described in Sec. 6.8.A.8.e.(1), Regulating Plan.

[1] = Indicates the minimum front yard setback shall be ten (10) feet, provided that the minimum front yard setback for a garage or carport with the entrance facing the front property line shall be twenty-five (25) feet. However, the minimum front yard setback for a garage or carport with the entrance facing the side property line shall be ten (10) feet.

Pb = Indicates the minimum lot size for the Public civic pod.

Pv = Indicates the minimum lot size for the Private civic pod.

- Building proposed within a Mixed-use pod may use the lesser setback requirement for side interior and rear setbacks if like uses abut, (residential uses abutting residential uses, commercial uses abutting commercial uses, or recreational uses abutting recreational uses).
- The building setbacks indicated above are based on a maximum building height of thirty five (35) feet. All structures exceeding thirty five (35) feet in height shall provide the applicable setback stated in Table 6.8-6, and an additional setback of one (1) horizontal foot for each one (1) vertical foot of building exceeding thirty five (35) feet in height.
- For residential development, building setbacks shall be measured from the inside edge of perimeter landscape areas. However, rear or side setbacks may be reduced up to a maximum of twenty five percent (25%) of the stated standard if the subject property line abuts a perimeter landscape area or an open space (lake, canal, golf course, preserve area, etc.) greater than or equal to one hundred (100) feet in width. For non-residential development, building setback shall be measured from the property line.

- Minimum building setbacks for buildings with a minimum lot size required by the ULDC, other than Townhouses, shall be measured from the lot line. Minimum building setbacks and separations for buildings without a required minimum lot size shall be measured from perimeter property lines, perimeter landscape areas, residential access streets, the proximity of one unit to another and road and canal rights-of-way.

- Property development regulations not indicated as flexible may be reduced by an administrative reduction of ten percent (10%) of the stated standards. See Sec. 6.8.A.15.c.

---

e. **Road improvements.** The BCC may condition a PUD to provide certain road improvements within the road right-of-way or elsewhere within the boundaries of a PUD. These improvements may be in addition to the land development improvements required for the subdivision or platting of land and are intended to forward certain goals of the Comprehensive Plan, including but not limited to: assuring the health, safety, and welfare of the public; facilitating and encouraging non-vehicular circulation, implementing the Linked Open Space, Scenic Corridor, and other applicable County programs, and improving the aesthetics of the community. These improvements may include but are not limited to: street lights, street trees and median landscaping; bike lanes; and underground utilities (see Sec. 6.8-A.23.d, Right-of-way improvements).

f. **Streets.** Streets serving a residential pod shall reinforce, rather than disrupt, the social integrity of the area. A street hierarchy shall be established which separates higher volume streets, such as arterial and collectors, from local streets or driveways which are internal to and serve residential pods.

g. **Parking requirements and access.** PUDs shall comply with Sec. 7.2, (Off-street parking regulations) and the parking and loading requirements of this section.

(1) **Residential pod.** Parking space requirements for housing within a residential or mixed-use pod shall comply with Sec. 7.2 (Off-street parking regulations) for the applicable housing type.

(2) **Commercial pod.** Parking lot requirements for commercial pods and for commercial uses within mix-use land uses shall comply with Sec. 7.2 (Off-street parking regulations) and the requirements listed below:

(a) **Calculation rate.** Parking spaces shall be calculated at a rate of one (1) space per two hundred (200 s.f.) square feet of gross floor area. Requested uses shall comply with the parking requirements listed in Sec. 7.2 (Off-street parking regulations). The total parking calculation rate may be lowered by the use of the commercial parking reduction bonus or the shared parking option listed below.

(b) **Adjacent lots.** Parking lot design and circulation shall allow vehicular access between contiguous lots without accessing a street if sanctioned by PZB or Engineering and Public Works;

(c) **Parking agreements.** Property owners shall record cross-access and shared-parking agreements with adjacent lot owners if sanctioned by PZB; and,

(d) **Maximum parking provided.** The total number of parking spaces provided with a commercial pod shall not exceed the minimum number required to serve the development based upon this section and Sec. 7.2 (Off-street parking regulations).

(e) **Commercial parking reduction bonus.** Commercial pods with a total non-residential gross floor area exceeding eighty thousand (80,000) square feet may reduce the parking calculation ratio rate for general and special permit uses for the amount of non-residential gross floor area above eighty thousand (80,000) square feet and equal to or less than one hundred twenty five thousand (125,000) square feet. This parking calculation rate reduction is limited to non-residential building area and shall be applied only to gross floor area. The gross floor area within the range identified above may be calculated at a reduced ratio of one (1) space per five hundred (500) square feet of gross floor area.

(f) **Shared parking.** Credit toward reducing the minimum number of required parking spaces for a commercial or mixed-use pod may be given for the submittal and approval of a shared parking study conforming to the requirements of Sec. 7.2.C.8 (Shared Parking).

(g) **Distance.** Parking spaces shall be located within easy walking distance, four hundred (400) linear feet, of a public entrance or exit of a building. This measurement shall be taken beginning at the perimeter of a parking space and extend along a pedestrian pathway or vehicular paved drive intended for use by pedestrians for entering or existing the buildings on site from the parking area.

(h) **Off-street parking.** Twenty (20) percent or more of the parking spaces shall be located at the rear or side of buildings and all parking shall be buffered from view from adjacent streets or land uses by a perimeter landscape area.

(i) **Landscape requirements.** Unless otherwise indicated, a PUD shall be landscaped according to Sec. 7.3, (Landscaping and buffering), Sec. 6.8.A.23.b, Perimeter landscape areas and development order conditions.

[Ord. No. 93-4] [Ord. No. 95-8] [Ord. No. 95-13]

[Ord. No. 93-4; February 2, 1993] [Ord. No. 95-8; March 21, 1995] [Ord. No. 95-13; April 18, 1995]

C. TND, Traditional Neighborhood Development District.

1. **Purpose and intent.** The purpose and intent of the TND district is to implement the Traditional Neighborhood Development Land Use Category of the Comprehensive Plan and to:
   a. Provide a range of residential, commercial and light industrial land uses;
   b. Lessen existing imbalances in land uses within a specified planning area;
   c. Encourage internal automobile trip capture;
   d. Offer a range of housing opportunities;
   e. Introduce a variety of architectural solutions for current development problems;
   f. Preserve natural features and scenic areas;
   g. Design safe and efficient circulation systems for pedestrians, non-motorized vehicles, and automobiles;
   h. Utilize perimeter landscape and edge areas to connect the various land uses and land use zones within neighborhoods, and the surrounding communities; and,
   i. Establish a neighborhood identity and focus.

2. **Previous approvals.** Modifications to previously approved TND's shall be subject to Sec. 380.06, Fla. Stat. (Substantial deviations) for a Development of Regional Impact and the modification requirements of Sec. 6.8.-A, Planned Development District Regulations.

3. **Application.** The applicant shall comply with section 380.06, Fla. Stat. (Development of Regional Impact) and shall provide a Preliminary Development Plan, a regulating plan and a justification report. These documents shall demonstrate compliance with Sec. 6.8-A, Planned Development District Regulations, this section and other requirements as may be required by PZB to process a rezoning or zoning amendment application.

   a. **Preliminary Development Plan.** A TND shall be governed by a Preliminary Development Plan approved by the BCC which illustrates, in a graphic, written and tabular form, how the TND is designed and phased. The requirements of a Preliminary Development Plan are found below, in Sec.6.8-A.8., Contents of application, and in the rezoning application form available from PZB.

      (1) **Minimum development thresholds.** TNDs shall comply with the following minimum development thresholds:
         (a) Contain a minimum size of one thousand two hundred and eighty (1,280) acres;
         (b) Locate farther than ten (10) miles from other TNDs; and,
         (c) TND neighborhoods shall:
            (i) Develop in contiguous lots or tracts;
            (ii) Provide minimum neighborhood proper areas of forty (40) acres; and,
            (iii) Provide maximum neighborhood proper areas of one hundred sixty (160) acres.

      (2) **Contiguous land.** Land may be added to a neighborhood proper provided the gross area of any neighborhood does not exceed a maximum of one hundred sixty (160) acres.

      (3) **Density.** Table 6.8-1, Planned Development District Densities and Corresponding Land Use Categories, establishes the minimum density, standard density, the planned development density, the TND bonus density, and the land use categories which correspond to a TND. Additional density requirements are listed in Sec. 6.8-A.3, Residential density and the Comprehensive Plan land use categories and below:

(a) **TND bonus.** A TND may qualify for a density bonus, in addition to the planned development density. The BCC may grant a TND density bonus of up to two (2) additional units per acre above the maximum density generally allowed for a planned development, see Table 6.8-1, Planned Development District Densities and Corresponding Land Use Categories. In order to qualify for the TND bonus density, the density increase must be: (1) provided for by the applicant through County programs which allow the transfer of density from one site to another or other density increases, or (2) available from the unallocated, Comprehensive Plan population pool of both the incorporated and the unincorporated population. This bonus population shall be correlated to the Capital Improvement Elements adopted by municipalities and County government. The minimum and maximum residential densities for a TND depend upon the underlying land use category, the gross acreage of the site and compliance with the following:

(i) The performance and density standards of the Land Use Element of the Palm Beach County Comprehensive Plan (mandatory and suggested) shall be met for the total density requested.

(ii) The TND shall be consistent with and forward the standards (mandatory and suggested) of this section; and,

(iii) The TND density bonus shall not be considered an entitlement for the approval of a TND district. A TND bonus shall only be granted for exemplary projects that exceed the minimum requirements of the Comprehensive Plan and the ULDC. The BCC has the option of granting standard density, planned development density bonus, a partial TND density bonus, or the maximum TND density bonus.

(4) **Land use mix.** The TND allows flexibility in establishing the proper mix of uses. Percentages of general land use zones may vary for each TND depending upon the findings of Sec. 6.8.C.4.c, (Land use justification report)

(a) **Design intent.** A TND shall meet the following land use requirements as provided in Table 6.8-7, TND Mix of Land Uses, including:

(i) Being predominantly residential;

(ii) Providing useable open green space for recreation and circulation; and,

(iii) Lessening land use imbalances.

(b) **Land use zones.** The land area of a TND shall be designated on the Preliminary Development Plan as a residential (including average density and dwelling unit count), a shopfront, a workplace, a civic, a sector, or a recreation\open space land use zone. Percentages of these land use zones may vary for each TND depending upon the findings of Sec. 6.8-C.4.c., Land use justification report, the requirements provided in Table 6.8-7, TND Mix of Land Uses, and the requirements listed below:

(i) **Balanced mix of land uses.** A TND shall provide a balanced mix of land uses. These land uses shall be balanced on the following levels:

1) **Neighborhood proper.** Each neighborhood proper shall meet the minimum allowable mix of land uses for each land use zone and shall satisfy the mandated requirements (meeting hall, neighborhood parks, etc.) for each neighborhood;

2) **TND.** The TND shall meet the minimum allowable mix of land uses for civic, useable open green space and open space/recreation; and,

3) **Sector land uses.** Sector land uses shall lessen existing imbalances within a sector area for employment, affordable housing, retail or service opportunities, see Sec. 6.8.C, Sector land uses.

TABLE 6.8-7
TND MIX OF LAND USES

General Land Use Zones	Minimum	Maximum	Per Capita
TND District			
1. Useable Open Green Space	5%	-	-
2. Recreation			
a. Edge areas	100' wide	-	-
b. Recreation	see per capita requirement and Sec. 6.8-C.6.b.	-	110 sf area/person
Neighborhood Proper			
1. Residential Land Use Zones	51%	-	-
2. Civic (Private)	2%	-	-
3. Low Density Residential (LDR) (0 - 4 du\ac.)	10%	55%	-
4. Medium Density Residential (MDR) (4.1 - 8 du\ac.)	20%	25%	-
5. High Density (optional) Residential (HDR) (8.1 - 18 du\ac.)	-	20%	-
6. Shopfront Commercial	4%	15%	-
a. Retail Uses	-	see per capita	2.5-20 SF Bldg/Person
b. Other Commercial Uses	-	-	-
7. Workplace	2%	20%	-

Notes to Table 6.8-7:

- Land use percentages are calculated on the gross acreage of the TND District or the neighborhood proper, as indicated above. The neighborhood proper land use percentage calculations shall include the areas of streets, through roads and alleys.

- Shopfront commercial retail use per capita is based upon the standard established by the International City Management Association, "The Practice of Local Government Planning" (Wash., D.C., 1979) which provides that neighborhood shopping centers need a support population of between 5,000 to 40,000 people for a 100,000 square feet retail center (p. 248).

- Neighborhood parks, neighborhood squares and recreation areas which meet the definition of useable open green space shall count toward satisfying the minimum useable open green space requirement. A minimum of two (2%) percent of recreation\useable open green space

- A minimum of fifty-five (55%) percent of each neighborhood proper shall be designated a residential land use zone.

TABLE 6.8-8
TND SECTOR LAND USE ZONE
MIX OF LAND USES

Sector Land Use Zones	Minimum	Maximum	Per Capita
1. Town Center	-	15%	3-6 sf retail/ person
2. Employment Center	-	20%	-

Notes to Table 6.8-8:

- Sector land use zones shall be supported by a land use justification report explaining how a town center or employment center will diminish land use imbalances within a sector area, Sec. 6.8-C.6.h., (Sector land uses).

- The Town Center maximum land use amount of fifteen percent (15%) is calculated by adding the combined total acreage of all shopfront lots within the neighborhood proper, to the total acreage of all Town Center lots proposed for a sector land use zone, and dividing the resulting acreage by the gross acreage of the combined areas of the neighborhood proper and sector land use zone.

- The Employment Center maximum land use amount of twenty percent (20%) is calculated by adding the combined total acreage of all workplace lots within the neighborhood proper to the total acreage of all Employment Center lots proposed for a sector area, and dividing the resulting acreage by the gross acreage of the combined areas of the neighborhood proper and sector area.

- Town center per capita is based upon the standard established by the International City Management Association, "The Practice of Local Government Planning" (Wash., D.C., 1979) which provides, "Community shopping centers, requiring a support area population of 50,000 or more, generally contain 150,000 to 300,000 square feet..." (p. 248).

- Seventy-five percent (75%) of the Town Center commercial shall provide vertical integration of residential and commercial uses.

(5) **Edge areas.** Edge areas shall be part of a network of connecting open space corridors which comply with Sec. 6.8.A.23.b, Perimeter landscape and edge areas, and the requirements listed below:

(a) **Buffer incompatible land uses.** The amount of buffering required for an edge area depends upon the compatibility of the surrounding land uses and the design of the land use zones. Sector, workplace, shopfront, and civic land use zones shall be buffered from surrounding residential land use zones by spatial separations, dense landscaping, lakes, berms or a combination of these buffering elements. Edge areas which separate land uses which are not incompatible by virtue of their site location and design may require less buffering. A determination shall be made by PZB as to the extent of the buffering required according to the requirements of 6.8.A.23.b; and,

(b) **Integration of land uses.** The edge areas are not intended to be detrimental to the integration of the TND into the adjacent communities. Buffering requirements depend upon the compatibility of the TND's perimeter land uses with surrounding land uses. Incompatible land uses shall be buffered by wide spatial separations, dense landscaping, lakes, berms, or a combination of these elements. Compatible TND land uses which are projected to function as an urban-infill project by virtue of it's location, may require no or less extensive buffering. A determination shall be made by PZB as to the extent of the buffering required using the criteria listed below:

(i) **Exceptions.** Edge areas are not required in the following areas:

1) **Through roads.** The length of the perimeter of civic, shopfront, workplace and sector land uses having frontage and access onto through roads;

2) **Water body.** The perimeter of the TND or neighborhood proper abutting a water body with a width of one hundred (100) feet or more; and,

3) **BCC.** The BCC may waive or modify edge area requirements if the applicant demonstrates that edge areas will be incompatible or detrimental to the surrounding communities urban design and that the waiver complies with of this section. Edge areas separating multiple neighborhoods within a district shall not be waived.

(ii) **Standards.** A minimum one hundred (100) feet wide edge area shall be provided around the perimeter of a TND. This buffer shall be provided and shall not be waived in the following circumstances:

1) **Residential.** If residential housing is located along the perimeter of the TND which is not compatible with the housing directly adjacent and outside the TND. Not compatible shall mean:

i **Building height.** A proposed building height exceeding adjacent building heights by more than two stories, twenty eight (28) feet; or,

ii **Density.** The housing along the perimeter of a proposed neighborhood proper exceeds the density of adjacent existing housing by more than three (3) dwelling units an acre.

2) **Nonresidential.** If shopfront, workplace or sector land use zones are located along the perimeter of the TND and do not access and have frontage onto a through street.

(iii) **Neighborhood edge areas.** An edge area shall be provided between the neighborhood proper of adjoining neighborhoods. The edge area shall be no less than one-hundred (100) feet in width and shall be considered part of, and shall not be in addition to, the required perimeter buffer surrounding the TND or separating another neighborhood proper.

(6) **Pedestrian orientation and scale.** TND neighborhoods shall be pedestrian oriented, physically recognizable and developed at a human scale:

(a) **Neighborhood size.** Neighborhoods shall be limited in size or shape to allow residents to walk to the neighborhood square within 1,320 feet or less. This requirement shall be met by ninety five (95%) percent of the housing units within each neighborhood proper;

(b) **Connections.** A neighborhood's residences, shopping, employment and recreational uses shall be connected by sidewalks or pedestrian paths, bicycle paths or bicycle lanes and driveways and local streets;

(c) **Community identity.** The TND shall locate a meeting hall, day care center and neighborhood square within one thousand (1,000) feet of the geographic center of each neighborhood to provide places for social, cultural and religious activities that may create community identity;

(d) **Mixed-use.** A neighborhood proper shall provide areas of mixed-use (residential and commercial uses) buildings having vertical integration and shall encourage by design the clustering of living, working, recreational, open space, shopping and civic uses; and

(e) **Spatial definition.** A neighborhood shall have defined building setbacks which spatially delineate the local streets and the residential blocks. The property development regulations in the regulating plan shall enforce these spatial requirements.

(7) **Range of housing.** The TND shall offer a diverse range of housing opportunities so that people of different social and economic backgrounds may live in the same neighborhood:

(a) **Housing types.** Each neighborhood proper shall offer a range of housing types including, but not limited to;

(i) Single family ;
(ii) Zero lot-line;
(iii) Townhouse;
(iv) Multiple family ; and,
(v) Outbuildings.

(b) **Affordable housing.** Low and very low income housing shall be provided based on the need as identified within the Land Use Justification Report for affordable housing; however, until the completion of the Annual Needs Assessment Report, affordable housing shall comprise no less than twenty (20%) percent of the development's on-site residential units. In addition, all densities exceeding eight (8) du/ac must be designated on the Preliminary Development Plan as low and very low income housing as defined in the Housing Element of the Comprehensive Plan.

(i) **Design.** Affordable housing shall comply with the regulating plan and the requirements listed below:

a) **Location.** Affordable housing shall be located within 1,320 feet, of a mass transit stop, or a shopfront or workplace use;

b) **Vary land use zones.** Be distributed throughout the TND and within each neighborhood proper, including the MDR and HDR land use zones and be encouraged in the LDR land use zone;

c) **Vary housing types.** Offer a variety of housing types (i.e. duplexes, townhouses, apartments); and,

d) **Vary bedrooms.** Offer housing types with a variety of bedrooms (i.e. 1, 2, 3, etc.);

(ii) **Preliminary Development Plan.** The Preliminary Development Plan shall indicate the number and percentage of affordable housing dwelling units provided for each land use zone within each neighborhood proper.

(8) **Circulation system.** The TND shall be designed with a circulation system based upon a hierarchy of transportation methods. In descending order of importance, the hierarchy shall consider pedestrians as the most important, followed by cyclists, mass transit and automobiles. This system shall be designed to connect and provide access between different land uses within each neighborhood and the surrounding communities by providing:

(a) Pedestrian and bicycle linkages, including but not limited to, walking paths, or sidewalks and bike trials or bike lanes;

(b) Parking areas designed to encourage the pedestrian nature of the TND. The types of uses proposed and the location and design of buildings and parking areas shall facilitate a reduction in parking requirements through a sharing of parking spaces.

b. **Regulating plan.** The regulating plan shall provide a comprehensive graphic and written description of the function and development of the TND, the neighborhoods and the major building types including the requirements of Sec. 6.8-A.7.e, Regulating plan and the following:

(1) **Supplemental regulations.** Supplemental regulations applicable and unique to a TND shall be developed by the applicant. These detailed regulations shall address design requirements not specifically dictated by this section and certain regulations within the TND which may be modified. Supplemental regulations shall be clearly stated, justified and illustrated in the regulating plan. The regulations are reviewed by the applicable County agencies who provides a recommendation of approval or denial to the Zoning Commission. The Zoning Commission then approves, denies or amends the proposed supplemental regulations.

(a) **Flexible regulations.** The applicant may request to deviate from certain property development regulations (specifically indicated as flexible regulations) within Table 6.8 - 9, Property Development Regulations.

(2) **Low and very-low income housing.** The regulating plan shall contain language which guarantees the affordability of affordable housing. These guarantees may be in the form of a deed restriction on the property and/or a resale addendum to the sales agreement or eligibility requirements for rental property, or other method acceptable to the BCC. These requirements shall be included in the regulating plan and shall provide:

(a) **Time limit.** Length of time the units are to remain affordable; however, the minimum length of time is fifteen (15) years. The developer shall guarantee that the household, upon entry to the unit, shall meet the definition of a low or very low income household as defined in the Housing Element of the Comprehensive Plan or other method acceptable to the BCC;

(b) **Fee simple housing.** Price ranges of fee simple housing;

(c) **Rental housing.** Price ranges of rental housing; and,

(d) **Evaluation and distribution.** Process of regulating and screening prospective renters and home owners for awarding dwelling units to the people that qualify based on income criteria and family size.

(3) **Transportation program.** The applicant shall provide a transportation program which complies with Sec. 6.8-A.7.e, Regulating plan and the following:

(a) **Internal trip capture.** A traffic study demonstrating the ability to achieve a significant internal trip capture rate of forty (40%) percent or higher concurrent with the buildout of an TND;

(b) **Street hierarchy.** A street classification plan establishing a logical hierarchy of streets based upon surrounding land use zones and design speeds. The pedestrian nature of the neighborhoods shall require slower design speeds, however the street cross-section shall be of sufficient width and design to accommodate the projected traffic.

c. **Land use justification report**. A land use justification report shall be provided to justify and explain the mix of land uses proposed and describe the methods used to calculate the percentage of each land use zone. The justification report shall address:

(1) **Land use**. The amount of land uses proposed, residential and nonresidential, the amount of affordable housing provided, and the effect on land use imbalances in the sector planning area, including:

(a) **Housing costs.** Imbalances between employment and housing, including the affordability of housing (housing costs matching job holders ability to pay costs based on salary potentials);

(b) **Housing availability.** Existing imbalances in the amount of affordable housing for the surrounding sector; and,

(c) **Open space and recreation.** Existing imbalances in the amount of useable open green space and recreation.

(2) **Sector land uses.** A justification report shall be provided for sector land uses which explains how the sector land use zones of town center and workplace will diminish existing land use imbalances within the sector planning area. The analysis shall include the land use requirements listed in Sec.6.8-C.6, Land use zones, and the following:

(a) **Nonresidential land uses.** Existing land use imbalances within a sector in the amount of nonresidential land uses to residential land uses; and,

(b) **Boundaries.** A map showing the boundaries of the sector area and justification for these boundaries. A sector shall be comprised of census tracts and follow census boundaries. The composition of the tracts may vary, and one or more tracts may be used in a sector; and,

(c) **Methodology.** A description of the methodology used to analyze the sector area including the raw data used (the most recent census data shall be used or actual survey data), the analysis procedures and the resulting affordable housing and land use mix recommendations.

(3) **Social activity and recreation areas.** The TND shall designate areas for social activity and active and passive recreation by providing neighborhood squares, neighborhood parks and recreation areas. These activity and recreation areas shall be linked by pedestrian paths or sidewalks, bicycle paths or lanes or useable open green space to encourage pedestrian access and non-vehicular circulation ;

(a) **Recreation report.** A recreation report shall detail the passive and active recreation available to the residential population of the TND and the sector planning area and shall be submitted as part of the justification report. This report shall include, but is not limited to:

i) The types of open space provided for the TND as a whole and for each neighborhood proper including:

a) The types of passive recreation proposed and a total acreage amount;

b) The types of active recreation proposed including a list and cost estimation of site improvements and a total acreage amount;

c) The methodology used to calculate the minimum amount of recreation required for a TND based on population and the following:
   i The requirements of Sec. 7.12, Park and recreation standards; and,
   ii The requirements of this section.

   In cases of conflict between the recreation requirements of the section listed above, the stricter regulation shall apply to the extent of the conflict.

d) The proposed connections (bike lanes, pedestrian paths, sidewalks , etc.) used to connect land uses and land use zones.

4.Administration.

a. **Conditions of approval.** The BCC may impose conditions of approval upon the development order to assure the intent of this section is satisfied and that the public health, safety and welfare are provided. Sec. 6.8.A, Conditions, for additional information about conditions.

b. **Development Review Committee (DRC).** Following approval by the BCC, the Preliminary Development Plan, regulating plan, and justification report shall be submitted for review and certification by the DRC according to Art. 5, Development Review Procedures, and Sec.6.8.A.15., Development Review Committee approval.

c. **Phasing controls and platting.** Each TND shall be subject to the time limitation and review requirements of Sec. 5.8 (Compliance with time limitations) and Sec. 6.8.A.20 (Phasing controls and platting) and proceed in a reasonably continuous and timely manner complying with the phasing schedule listed below.

   (1) **Meeting hall and parks.** The site for a meeting hall and fifty (50%) of the parks proposed for a neighborhood shall be platted in a neighborhood proper prior to the platting of fifty (50%) of the residential lots of a neighborhood. Construction of the neighborhood parks system and a meeting hall shall commence as provided in section F.5.a & b (Open space\recreation use) and (Civic use) of this section.

d. **Property owners association.** A property owners association shall be formed to manage the common areas and guide the growth of each neighborhood. If the TND consists of multiple neighborhoods, a master property owners association shall be created to manage the project as a whole.

5. **Land use zones.** A TND shall be divided into land use zones indicated on the Preliminary Development Plan as provided in Table 6.8-2, (Planned Development Use Regulations Schedule), and Table 6.8-7, TND Mix of Land Uses, unless otherwise restricted by the conditions included in the final development order and subject to the provisions below:

   a. **Proximity of land uses.**

   (1)Land uses within the same general land use zone may enfront;
   (2)Land uses in different zones shall not enfront, but may abut at rear property lines; and
   (3)Any land use may enfront the civic land use zone.

b. **Open space/recreation use.** Open space/recreation land uses shall include edge areas, parks, squares and recreation areas. A continuous non-vehicular circulation system shall connect internally between neighborhood propers and externally with surrounding communities.

(1) **Neighborhood parks.**

(a) **Minimum area.** A Neighborhood park shall have a minimum area of eight thousand four hundred (8,400) square feet;

(b) **Six hundred (600) feet requirement.** Each neighborhood shall be distributed so that ninety five (95%) percent of the housing is located within six hundred (600) feet from a park or other recreation area;

(c) **Paved area.** Not more than ten (10%) percent of a park's lot area shall be paved for parking.

(d) **Perimeter.** Fifty (50%) percent of the perimeter of the park shall be adjacent to a street right-of-way.

(2) **Recreation areas.** Recreational uses which tend to generate negative impacts such as noise, bright lights, litter, etc. onto adjacent land uses shall be designed with a perimeter landscape area located between the recreational use and adjacent incompatible land uses and shall be located outside of a neighborhood proper but may be located within the edge areas between neighborhood proper. Recreational uses within one hundred (100) feet of a residential dwelling unit within or without the TND shall provide a perimeter landscape area which complies with the compatibility buffers described in Sec. 6.8-A.22.b, Perimeter landscape and edge areas.

c. **Civic use.** The Civic land use zone is intended to promote a coordinated land planning approach for providing and encouraging publicly and privately owned land uses to serve the community. It should be understood that the civic land use requirements contained herein, shall in no way alter, diminish, or increase those obligatory conditions which were made prior to the adoption of this code. A minimum of two (2%) percent of the gross area of the TND shall be designated on the Preliminary Development Plan as either Public Civic or Private Civic as indicated below:

(1) **Publicly owned civic land uses.** A portion of a TND may be required to be conveyed in simple title to the BCC for civic purposes in response to an increase in services or other impacts required concurrent with the development of the TND or by a voluntary commitment by the applicant.

(a) **Conveyances.** These conveyances shall be in the form as provided by BCC conditions, and as indicated in the development agreement for a project, as provided in Ord. 91-16, "Palm Beach County Development Agreement Ordinance" as may be amended, and shall meet the Facilities Planning, Design and Construction Department's requirements for civic land acquisition. Conveyance of land for civic sites shall not include land utilized for dry or wet retention for land uses located outside of the civic site.

(b) **Land uses.** Publicly owned civic lots shall consist of land uses which are required to provide services to meet Concurrency requirements such as, but not limited to, regional parks, water treatment facilities and fire stations, and services required to mitigate other impacts of the development to service providers such as, but not limited to, public schools or libraries.

(c) **Service providers.** The civic dedications for service providers shall be mutually agreed upon by the petitioner and the Facilities Planning Design and Construction Department.

(d) **Location.** Civic uses may be located internal or external to a neighborhood proper and the location shall be mutually agreed upon by the petitioner and the Facilities Planning Design

and Construction Department.

(e) **External civic uses.** Civic uses located external to a neighborhood proper shall comply with the edge buffering requirements for sector land uses.

(f) **Property development regulations.** Civic uses shall comply with the regulations in this section and Table 6.8-9, Property Development Regulations. Publicly owned civic lots may also be exempted from a property development, design or Subdivision Planning regulation if the regulation is determined by the Zoning Director to be detrimental to the proper functioning of the civic use.

(2) **Privately owned civic land uses.** A minimum of two (2%) percent of the area of each neighborhood proper shall be designated for privately owned civic lots. These civic lots shall consist of land uses which provide services to a neighborhood and are customarily privately owned, operated and allowed in residential zoning districts, such as, but not limited to, day care centers, churches, temples, meeting halls, etc.) see Table 6.8-2, Planned Development District Use Regulation Schedule.

(a) **Location.** Private civic lots shall be located adjacent to a neighborhood square or park or on a lot terminating in a street vista;

(3) **Neighborhood square.** Every neighborhood shall be provided with a square. The lots surrounding a square shall serve as a focal point for the social life of the neighborhood by providing a neighborhood store, day care center, bus stop (if applicable), and other neighborhood services. A meeting hall shall be constructed within the square's boundaries or fronting the square.

(a) **Land use regulations.** The following regulations shall apply to neighborhood squares and land uses fronting the square:

i) **Central location.** Each neighborhood shall have a neighborhood square which is located within one thousand (1,000) feet of the geographic center of the neighborhood and within a 1,320 feet walk of ninety five (95%) percent of the neighborhood housing;;

ii) **Size limitations.** The square shall have a minimum lot size of forty three thousand five hundred sixty (43,560) square feet and a maximum size of one hundred forty thousand (140,000) square feet. These minimum and maximum size measurements do not include adjacent street right-of-ways;

iii) **Neighborhood store.** A neighborhood store with a maximum gross floor area of fifteen hundred (1,500) square feet shall be allowed adjacent to one side of the square;

iv) **Perimeter.** Squares shall have at least fifty (50%) percent of their perimeter adjacent to street rights-of-way;

v) **Through streets.** The square shall be located at the intersection of through streets or other streets which extend beyond the boundaries of the neighborhood proper;

vi) **Parking.** Thirty (30%) percent of the neighborhood square may be used for paved parking.

(b) **Meeting hall.** Every TND shall construct a meeting hall which complies with the following requirements:

i) **Covenant.** The master developer, his successor or assignee, shall covenant at platting to construct a meeting hall in or fronting the square in each neighborhood;

ii) **Construction.** Building shall commence upon the sale or rent of sixty-five (65%) percent of the total lots and units to end users (not sale of lots to a developer for resale);

iii) **Gross floor area.** The meeting hall shall contain a room having a gross floor area

equivalent to four (4) square feet per residential lot in the neighborhood, or two thousand (2,000) square feet, whichever is greater.

(c) **Daycare.** A minimum of one (1) civic lot in each neighborhood proper shall be designated for child care.

(d) **Noncommercial storage area.** The master developer, his successor or assignee shall designate an area for the storage of noncommercially used or operated boats, trucks or recreational vehicles:

i) **Minimum lot size.** A minimum of one (1) lot, with an area of four thousand two hundred (4,200) square feet or more shall be platted for every neighborhood proper;

ii) **Location.** The storage lots may be combined into one area and shall be located within the shopfront, workplace or sector land use zone and shall not abut a residential land use zone along any of the storage area's perimeter; and,

iii) **Use.** The use of this storage area is limited to the residents of the TND and shall not be used for commercial purposes.

d. **Low density residential (LDR) land use zone.** Low density residential land use zones may consist of single family homes, zero lot-line, two unit single family homes, Congregate Living Facilities Type I and customarily allowed accessory uses. This zone is intended to provide areas for single-family housing at a density larger than zero (0) and less than or equal to four (4) dwelling units per acre.

e. **Medium density residential (MDR) land use zone.** Medium density residential land use zones shall primarily of multiple family buildings with more than two (2) units, including but not limited to: townhomes; apartments; condominiums; etc. and customarily allowed accessory uses. This zone is intended to provide for multiple family and affordable housing at a density greater than four (4) and equal to or less than eight (8) dwelling units per acre.

f. **High density residential (HDR) land use zone (optional).** High density residential land use zone is an optional zone and is encouraged for TNDs with high underlying land use designations, High Residential eight (HR 8) or higher, on the Comprehensive Plan Land Use Atlas. This land use zone shall consist primarily of multiple family buildings containing apartments, condominiums, or other similar housing types and customarily allowed accessory uses. This zone is intended for a concentrated density of multiple family affordable housing greater than eight (8) and equal to or less than eighteen (18) dwelling units per acre.

g. **Shopfront and workplace land use zones.** Shopfront and workplace land use zones are intended to provide commercial, professional office and light industrial uses of a community nature to service the surrounding neighborhood propers within the TND.

(1) **Shopfront.** Shopfront land uses shall consist primarily of retail, professional office and community commercial uses, see Table 6.8-2, Planned Development District Use Regulation Schedule, and shall comply with the following:

(a) **Residential use.** A minimum of twenty-five (25%) of the gross leasable area of a shopfront building shall be designated for residential use;

(b) **Ground floor.** Residential uses are prohibited on the ground floor of a shopfront building; and,

(c) **Adjacent shopfront.** Shopfront land uses of adjacent neighborhoods may be located next to each other and designed to function as one commercial land use zone as long as edge

area and other buffering and locational criteria may be met.

(2) **Workplace.** Workplace land uses shall consist of light industrial and professional office uses, see Table 6.8-2, Planned Development District Use Regulation Schedule

(3) **Shopfront and workplace.** Shopfront and workplace lots shall comply with the following:

(a) **Compatibility buffers.** Shopfront and workplace lots shall be separated from residential land use zones and parks at the side or rear lot lines by a compatibility buffer, see Sec. 6.8-A.20.b, Perimeter landscape and edge areas.

(b) **Hours of operation.** Shopfront or workplace uses shall not commence business activities (including delivery and stocking operations) prior to 6:00 a.m. nor continue activities later than 11:00 p.m. These operational limitations shall apply to uses in the Town Center and Employment Center sector land use zone unless the uses are three (300) feet or greater from a dwelling unit. Other sector land use zones shall be subject to these regulations as determined by the Zoning Director.

(c) **Open storage.** No open storage or placement of any material, refuse equipment or debris shall be permitted in the rear of any structure.

(d) **Outdoor speakers.** No outdoor loudspeaker systems shall be permitted.

(e) **Rooftop screening.** All roof-top mechanical and electrical equipment shall be screened so as not to be visible from adjacent land uses. The screen shall be opaque and extend from the roof of the building to the full height of the objects being screened.

h. **Sector land use zones.** Sector land uses shall be specifically requested and justified by the applicant as required by Sec. 6.8-C.4.c.(2), (Sector land uses) and approved by the BCC.

(1) **Town center.** The purpose of the town center is to provide an appropriate place to locate more intensive shopfront uses which are more intensive than is permitted in neighborhood shopfront areas. These uses are intended to serve the TND and the surrounding sector area.

(2) **Employment center.** The purpose of the employment center is to provide an appropriate place to locate light industrial or professional office uses which are more intensive than is permitted in a neighborhood workplace area. Employment centers shall provide employment opportunities for the TND and the surrounding sector area.

(3) **Land uses and locational requirements.**

(a) **Through street.** Town centers and employment centers shall be located on the perimeter of a neighborhood proper and separated from the neighborhood by a through street;

(b) **Land use mix.** The land use mix for employment centers may consist entirely of professional office or light industrial, or a combination of the above, subject to the finding of the sector analysis justification report;

(c) **Residential.** Residential housing is allowed in employment centers only in combination with professional offices. Residential uses shall not be mixed with light industrial uses unless permitted elsewhere in the Unified Land Development Code; and,

(d) **Street intersections.** Two (2) or more streets shall connect town or employment uses with adjacent neighborhoods and intersect a through street. The point of intersection of these two connecting streets into a through street shall be a minimum of two hundred (200) feet apart and a maximum of five hundred (500) feet from the neighborhood proper;

(4) **Property development regulations.** Sector land uses shall comply with Table 6.8-9, Property Development Regulations. Town center uses shall comply with shopfront, and employment center shall comply with workplace regulations except for maximum lot size, maximum setbacks, maximum lot combinations and maximum percentage of combined lots.

(5) **Additional sector land use zones.** Sector land use zones other than town center and

employment center may be requested within a TND. These additional sector land use zones shall be graphically indicated on the Preliminary Development Plan and explained and justified in the justification report.

6. **Property development regulations.** The planned development regulations within a TND shall be as listed in Table 6.8-9, Property Development Regulations, for the applicable land use zone, unless otherwise provided in the approved Preliminary Development Plan and the development order.

TABLE 6.8-9
TND Property Development Regulations

Regulation	Open Space/ Recreation	Civic	Low Density Residential
Lot Size in Square Feet	–	4,200 min. none max.	5,500 min.* 8,400 max.
Minimum Lot Width and Frontage	84'	84'	55'*
Minimum Lot Depth	75'	75'	75'
Setbacks:			
Front Yard	20'	20'	5' min. 20' max.
Street Side Yard	20'	20'	20'
Interior Side Yard	20'	20'	0' and 10' or 5' each side
Rear Yard	20'	20'	20' 5' outbldg.
Maximum Building Height	1 story	3 story	2 story
Maximum Building Coverage	10%	25%*	50%
Maximum Lot Combination	–	–	3
Maximum % Combined Lots	–	–	50%
Outbuilding Permitted	No	No	Yes
Number of Dwelling Units Allowed Per Lot	–	–	1 max.

Note: * Indicates flexible property development regulations which may deviate from the above stated standards by complying with Sec 6.8-C.4.b.(1), Supplemental regulations.

TABLE 6.8-9 (Continued)
TND Property Development Regulations

Regulation	Medium Density Residential	High Density Residential	Shopfront	Workplace
Lot Size in Square Feet	8,400 min.* 16,800 max	8,400 min.* 16,800 max	4,200 min. 8,400 max.	4,200 min. 8,400 max.
Minimum Lot Width and Frontage	84'*	84'*	42'	42'
Minimum Lot Depth	75'	100'	100'	100'
Setbacks: Front Yard	5' min. 20' max.	20' min. 30' max.	0' min.	0' min.
Street Side Yard	20'	20' min.	0' min.	0' min.
Interior Side Yard	0' and 10' or 7.5' each side	20' min.	0' or greater than 5'	0' or greater than 15'
Rear Yard	20' 5' outbldg.	20' min.	30' min.	30' min.
Maximum Building Height	3 story	4 story*	3 story	4 story
Maximum Building Coverage	50%	50%	50%	50%
Maximum Lot Combination	6	6	5	2
Maximum % Combined Lots	50%	50%	50%	50%
Outbuilding Permitted	Yes	No	No	No
Number of Dwelling Units Allowed Per Lot	3 max.	5	–	–

Note: * Indicates flexible property development regulations which may deviate from the above stated standards by complying with Sec. 6.8-C.4.b.(1), Supplemental regulations.

a. **Enclosed uses.** Unless otherwise permitted herein, all land uses shall take place entirely within enclosed buildings.

b. **Building types.** Building types, as well as property development regulations affecting lot design shall meet the requirements of this section and shall further be defined in regulating plan.

c. **Raised basements.** Raised basements shall not elevate the principal floor more than five (5) feet

above the adjacent sidewalk elevation.

d. Outbuildings.

(1) **Uses.** Outbuildings shall not exceed two (2) stories in height. The first floor of an outbuilding may be used as a garage, an accessory apartment or as an apartment for the elderly or handicapped, see Sec. 6.4 (Accessory apartments for the elderly and handicapped).

(2) **Density.** Garage apartments and accessory apartments shall not be considered "dwelling units" for the purpose of calculating maximum allowable density for the TND. However, all housing including these apartments shall satisfy the requirements of the Adequate Public Facilities Ordinance, as may be amended.

(3) **Size.** Habitable area in an outbuilding shall not exceed:

(a) **Accessory apartment.** In the case of an accessory apartment for the elderly or handicapped, the gross floor area provided in Sec. 6.4, (Accessory apartments for the elderly and handicapped); and,

(b) **Garage apartment.** In the case of a garage apartment, five hundred twenty-five (525) square feet of gross floor area.

(4) **Parking.** Use of an outbuilding as an apartment shall not increase the minimum on-site parking requirements for a residential lot; and,

(5) **Regulating plan.** Property development regulations for outbuildings shall be further restricted in the regulating plan.

e. Main entrance. All buildings, except outbuildings, shall have their main entrance opening to a street or square.

f. Permitted encroachments.

(1) **Porches.** A porch may encroach a maximum of six (6) feet into front setbacks of fifteen (15) feet or more, excluding corner lots. A porch shall have a minimum depth of six (6) feet and a minimum width of twelve (12) feet. Except for insect screening and supporting columns, a porch shall not be enclosed above three (3) feet measured from the finished floor of the porch.

(2) **Roof overhangs.** A perpetual three (3) foot wide maintenance easement shall be provided on a lot adjacent to the property line of an unattached zero lot line building. The easement shall be shown on the plat and incorporated into the Declaration of Restrictive Covenants. Roof overhangs may encroach into the easement up to a maximum of eighteen (18) inches. The roof shall be so designed that water runoff from the zero lot residence shall be diverted from the easement area. With the exception of fences, walls or hedges along the front property line, the maintenance easement shall be kept free of obstructions.

g. Windowless building walls. Building walls placed less than five (5) feet from an interior lot line shall remain windowless. Building walls less than three (3) feet from an interior lot line shall meet the requirements of Sec 6.8-C.7.f. (above), Roof overhangs.

h. Colonnades. Colonnades are encouraged to be used along streets with civic, shopfront or workplace land use. Colonnades may encroach into the street right-of-way up to the edge of the curb. A colonnade shall be a minimum of eight (8) feet in width and have a minimum clear height of ten

(10) feet from ground to ceiling.

i. **Streets and alleys.** The typical design standards for a street, (sidewalks, right-of-way widths, lane widths, landscaping, parking, and turning radius) may deviate from the standard design requirements of Art.8 (Subdivision) by meeting the following requirements and complying with Table 6.8-10, Street Design Standards:

(1) **Deviations.** The deviations shall be provided in the regulating plan;
(2) **Ownership.** The roads shall not be owned or maintained by Palm Beach County, unless a Thoroughfare Plan road;
(3) **Safety.** The design changes shall not endanger the health, safety, or welfare of the public as determined by the County Engineer.

TABLE 6.8-10
TND STREET DESIGN STANDARDS

LAND USE ZONES	STREET RIGHT-OF-WAY WIDTH	TRAVEL LANE		MINIMUM CURB RADIUS
		Minimum Number	Minimum Width	
Low Density Residential (LDR)	46' - 50'	2	10'	20'
Medium Density Residential (MDR)	50' - 60'	2	10'	20'
High Density Residential (HDR)	50' - 60'	2	10'	25'
Shopfront	70' - 80'	2	12'	30'
Workplace	71' - 100'	3	11'	30'

Notes to Table 6.8-10:

- Crossing site distance at all intersections shall be in accordance with the minimum requirements of the State of Florida "Manual of Uniform Minimum Standards for the Design, Construction, and Maintenance of Streets and Highways" (F.D.O.T. Green Book). Parking and landscaping in the vicinity of all intersections shall be restricted in accordance with the minimum requirements of this Manual.
- Street right-of-way requirements indicate a minimum and a maximum width.
- To establish a range of permitted right-of-way widths.
- Streets serving many blocks, connecting with roads outside of the neighborhood or passing through edge areas, shall not have a road right-of-way less than fifty (50) feet in width.
- Shopfront and Workplace land uses located along a through street shall provide the minimum requirements of this table and may exceed the maximum right-of-way widths.
- The TND street design standards above shall follow the land use with lots having frontage or a side corner to streets. In cases of two or more land uses within apply.

TABLE 6.8-11
TND STREETSCAPE DESIGN STANDARDS

LAND USE ZONES	STREET TREES		MINIMUM SIDEWALK WIDTH	PARALLEL PARKING WIDTH
	Minimum Planting Area	Maximum Avg. Spacing		
Low Density Residential (LDR)	8' x 23' = 184 sq. ft.	50'	5'	8' one side
Medium Density Residential (MDR)	8' x 23' = 184 sq. ft.	50'	7'	8'
High Density Residential (HDR)	8' x 23' = 184 sq. ft.	50'	7'	8'
Shopfront	5' x 8' = 40 sq. ft.	40' or 30'	10'	8'
Workplace	5' x 8' = 40 sq. ft.	40' or 30'	7'	8'

Notes to Table 6.8-11:

- Crossing site distance at all intersections shall be in accordance with the minimum requirements of the State of Florida "Manual of Uniform Minimum Standards for the Design, Construction, and Maintenance of Streets and Highways" (F.D.O.T. Green Book). Parking and landscaping in the vicinity of all intersections shall be restricted in accordance with the minimum requirements of this Manual.
- "One side" in the chart above indicates that on-street parallel parking shall be provided on one side of the street. Land use zones other than LDR shall provide parallel parking on both sides of the street.
- Minimum landscape planting areas shall be planted with street trees, xeric shrubs and ground covers as provided in Sec. 6.8-C.7.1., Landscape requirements.
- Minimum landscape planting areas may be provided between parallel parking spaces but are not required to be continuous in nature.

---

(4) **Street classification plan.** The street classification plan provided as part of the regulating plan shall incorporate the following general design standards:

(a) **Street vistas.** The Preliminary Development Plan shall designate publicly and privately owned civic lots and the general location of a civic building at the terminus of street vistas for all major internal streets, including through streets.

(b) **Street connections.** A grid street pattern is encouraged within a TND, therefore cul-de-sacs are not permitted on streets. The maximum length of the circumference of a block shall not exceed one thousand three hundred fifty (1,350) linear feet.

(c) **Alleys.** A continuous network of alleys shall connect the rear of lots in all land use zones except the Low Density Residential (LDR) land use zone (Alleys are optional for the low density residential land use zone).

TABLE 6.8 - 12
ALLEY DESIGN STANDARDS

ALLEY TYPE	ALLEY WIDTH	TRAVEL LANE		MINIMUM CURB RADIUS	MINIMUM PLANTING AREA
		Minimum Number	Minimum Width		
Residential Alley	24'	1	8'	25'	16'
Commercial Alley	30'	2	10'	25'	10'

Notes to Table 6.8-12:

- Residential alleys shall provide access to residential land use zones and commercial alleys shall provide access to all other land use zones. In case of an alley serving residential and non-residential land use zones, a commercial alley shall be provided.
- A clear area of sixteen (16) feet and a clear area of twenty (20) feet, respectively, shall be maintained within residential and commercial alleys to allow unobstructed two-way traffic.
- Residential alleys shall provide eight (8) feet of planting area on both sides of the travel lane. Measuring from the edge of pavement, the first four (4) feet of the planting area on both sides of the travel lane shall be sodded and maintained free of obstructions.
- Commercial alleys shall provide five (5) feet of planting area on both sides of the travel lanes, or if adjacent to a residential land use zone, shall provide ten (10) feet of planting area on the side of the travel land opposite the non-residential uses.

---

(5) **Through streets.** Streets serving a neighborhood proper shall reinforce, rather than upset, the social and economic integrity of the community. The street classification system of the regulating plan shall identify and separate higher volume streets, such as arterial and collectors, from streets and alleys which are internal to and serve the neighborhood proper.

(a) **Road improvements.** Street trees, bike lanes or paths, and other designated improvements shall be provided on roads indicated as Scenic Corridors, see Sec. 6.8-A.22.d, Road improvements.

i) **Thoroughfare map.** Street cross sections commonly used for roads shown on the County Thoroughfare Protection Plan Map do not provide sufficient width to accommodate street trees and bike lanes. Design modifications to these section widths shall be made as required by the Engineering Department;

ii) **Location.** A through street shall provide primary access to or border a neighborhood proper, but shall not pass through or divide it; and,

iii) **Design.** Through streets bordering or connecting a neighborhood shall provide:

a) **Sidewalk.** A sidewalk of not less than six (6) feet in width;

b) **Trees.** Shade trees spaced an average distance of fifty (50) feet or less apart on both sides of the street.

c) **Bike lanes.** Bike lanes meeting the design standards as established by the Zoning Division and approved by the Engineering Department.

j. Utilities and street lighting.

(1) **Utilities.** Public utilities shall be constructed underground or along an alley to the rear of a lot.

(2) **Light standards.** Street lights shall be between eight (8) and fourteen (14) feet in height and equipped with incandescent or metal halide light bulbs. Street lights shall be installed on both sides of streets at no more than one hundred (100) foot intervals. This measurement shall be taken parallel to and along the street. Street lighting for roads indicated on the County Thoroughfare Plan Protection Map shall conform with the requirements of the County Engineer.

k. **Parking requirements and access.** TNDs shall comply with Sec. 7.2 (Off-street parking regulations) and the parking and loading requirements of this section. If conflicts exist between these regulations, the regulations of this section shall apply to the extent of the conflict.

(1) **On-street parking.** The on-street parking spaces immediately abutting a lot shall count toward satisfying:
- (a) **Visitor.** Minimum visitor parking requirements for residential lots;
- (b) **Outbuildings.** Parking spaces for outbuildings; and
- (c) **Other.** Minimum parking requirements for shopfront, workplace, civic and sector land uses.

(2) **Off-street parking requirements and location.** TNDs shall comply with Sec. 7.2 (Off-street parking regulations), and the parking and loading requirements of this section.
- (a) **Location.** Parking lots shall be located at the rear or side of buildings and shall be buffered from view from adjacent streets by streetwalls or streetedges. Parking spaces shall be located within easy walking distance, three hundred (300) linear feet, of a public entrance or exit of a building. This measurement shall be taken beginning at the perimeter of a parking space and extend along a pedestrian pathway or vehicular paved drive intended for use by pedestrians for entering or existing the buildings on site from the parking area. (These location requirements shall not apply to grass parking areas or public schools.)
- (b) **Streetwall.** Land use zones requiring streetwalls to buffer parking lots:
  - i) Civic;
  - ii) Shopfront;
  - iii) Workplace; and,
  - iv) Sector.
- (c) **Streetedge.** Land use zones requiring streetedges to buffer parking lots:
  - (i) Open space/recreation;
  - (ii) Low density residential;
  - (iii) Medium density residential; and
  - (iv) High density residential.
- (d) **Maximum parking provided.** The total number of parking spaces provided for a TND shall not exceed the minimum number required to serve the development based upon this section and Sec. 7.2, and the parking requirements of this section.
- (e) **TND parking reduction bonus.** Shopfront lots with a total non-residential gross floor area of eighty thousand (80,000) square feet may reduce the parking calculation ratio rate for general and special permit uses for the amount of gross floor area exceeding eighty thousand (80,000) square feet and equal to or less than one hundred twenty five thousand (125,000) square feet. This parking calculation rate reduction is limited to non-residential building area and shall be applied only to gross floor area which is not a requested land use. Requested land uses shall comply with the parking requirements of Sec. 7.2, (Off-

street parking regulations). The gross floor area within the range identified above may be calculated at a reduced ratio of one (1) space per five hundred (500) square feet of gross floor area.

(f) **Shared parking.** Credit toward reducing the minimum number of required parking spaces for a TND may be given for the submittal and approval of a shared parking study conforming to the requirements of Sec. 7.2.D.8 (Shared Parking).

(5) **Individual land use zones.**

(a) **Civic use.**

(i) **Grass parking.** Parking lots on civic tracts shall be graded, compacted and landscaped, but may be left unpaved, so long as the site receives a special permit for grass parking by complying with Sec. 7.2 (Off-street parking regulations).

(ii) **Access.** Parking lot access may be through the frontage, side or rear of the lot.

(b) **Low density.**

(i) **Access.** Parking spaces may be accessed through the frontage or rear of a lot; and

(ii) **Location.** Garages or carports shall be recessed a minimum of twenty (20) feet behind the front facade of the house. The distance shall be measured from the portion of the facade with the greatest setback from the street.

(c) **Medium and high density.** Parking lots shall be accessed from a residential alley from the rear of the lot.

(d) **Shopfront and workplace.** Parking lot requirements:

(i) **Adjacent lots.** Provide off-street vehicular circulation with adjacent lots through commercial alleys;

(ii) **Parking agreements.** Record cross-access and shared-parking agreements with adjacent lot owners if sanctioned by the Department;

(iii) **Rear parking.** Locate a minimum of fifty (50%) percent of off-street parking to the rear of the buildings; and,

(iv) **Access.** Parking lots shall not be accessed through the street frontage of the lot.

l. **Landscape requirements.** Unless otherwise indicated, the TND shall be landscaped according to Sec. 7.3, (Landscaping and buffering), the requirements of this section and the regulating plan.

(1) **Street planting areas.** The following planting standards shall apply in residential and nonresidential land use zones:

(a) **Residential land use zones.**

i) **Street trees.** Trees shall be planted within the street rights-of-way between the sidewalk and the street curb in the LDR, MDR and HDR land use zones;

ii) **Spacing.** The trees shall be planted with a maximum average spacing of fifty (50) feet on center; and,

iii) **Palms.** Palms may not be used as street trees in residential land use zones.

(b) **Nonresidential land use zones.**

(i) **Street trees.** Trees shall be planted within the street rights-of-way between the sidewalk and the street curb in all nonresidential land use zones, unless otherwise indicated;

(ii) **Spacing.** Trees shall be planted with a maximum average street spacing of forty (40) feet on center;

(iii) **Palms.** Palms may be used as street trees for nonresidential land use zones subject to

the following requirements:

a) **Spacing.** The average spacing shall be thirty (30) feet on center;

b) **Spread.** A minimum mature crown spread of at least twenty (20) feet in diameter; and,

c) **Grey wood.** A minimum grey wood height of eight (8) feet upon planting.

(c) **Water tolerance.** All land use zones shall provide drought tolerant (xeric) shrubs and ground covers to stabilize the surface area of all street plantings and control soil erosion.

(2) **Parking lots.** Parking lots that abut streets shall be separated from the street by a streetedge or streetwall, as provided below:

(a) **Streetwall.**

i) **Design.** A visual buffer a minimum of four (4) feet and a maximum of six (6) feet in height built along the frontage line or alley. It shall consist of masonry, wood or a combination of masonry and wood and shall provide a minimum of seventy-five (75%) percent opacity. Streetwall openings shall have a gate which shall be included when calculating the percentage of opacity.

ii) **Typical planting requirements.** The inside of a streetwall shall be landscaped with shade trees located between the parking and the wall and the outside with hedges or shrubs. Trees shall be planted at a maximum of thirty (30) feet on center and four (4) feet from the edge of the right-of-way on that portion of the exterior of the streetwall not used as an accessway. Additional minimum planting requirements and plant sizes are found in Sec. 7.3, (Landscaping and buffering) or as otherwise shown in the regulating plan.

(b) **Streetedge.** A buffer used to define and continue the frontage line along the unbuilt portion of a lot. A streetedge shall have a height of between three (3) feet and five (5) feet and be located on and along the frontage line. It shall consist of a wall, fence, hedge or other suitable materials which meet the standards of the landscape code. A streetedge shall provide no less than fifty (50%) percent opacity.

[Ord. No. 93-4]

[Ord. No. 93-4; February 16, 1993]

D. MXPD, Mixed-Use Planned Development District.

1. **Purpose and intent.** The purpose of the MXPD district is twofold: 1. Promote the design of mixed-use developments for land which has a commercial designation on the Land Use Atlas, see Table 6.8-1, Planned Development District Densities and Corresponding Land Use Categories or a commercial pod designation within a PUD or PIPD; and, 2. Provide for the compatible integration of residential uses and commercial uses into a unified development.

   The intent of the MXPD is to provide for the compatible development and integration of nonresidential uses and residential uses with enlightened and imaginative approaches to community planning, including but not limited to:

   a. The use of vertical or horizontal integration with residential and commercial uses;
   b. The selection of land uses which encourages internal automobile trip capture and compatibility with residential uses;
   c. The design of a site development plan which provides for the compatible cohabitation of residential and commercial uses;
   d. The use of flexible property development regulations;
   e. The design of safe and efficient circulation systems for pedestrians, bicycles, and automobiles;
   f. The utilization of multiple family homes to provide a transition area between commercial uses and adjacent residential development; and,
   g. The incorporation of into the site development plan to connect, buffer and define the various land uses and pods within a MXPD.

2. **Applicability.** The requirements of this section, Sec. 6.8-A.2, shall apply to all MXPDs, whether new or amended, within unincorporated Palm Beach County, in accordance with Sec. 1.5. In cases of conflict between this section and other sections of the ULDC, the provisions of this section shall apply to the extent of the conflict.

   a. **Previous approvals.** Modifications to previously approved mixed-use special exceptions shall comply with the requirements listed above

3. **Application.** The applicant shall provide a Preliminary Development Plan, a regulating plan, and a justification report. These documents shall comply with Sec. 6.8-A, Planned Development District Regulations, this section, and the requirements listed in the rezoning application form as may be required by PZB to process a Planned Development rezoning or zoning amendment application.

   a. **Preliminary Development Plan.** A MXPD shall be governed by a Preliminary Development Plan approved by the BCC which illustrates, in a graphic, written and tabular form, the intensity (gross floor area) and the conceptual design of a MXPD. The requirements of a Preliminary Development Plan are found below, in Sec. 6.8-A.8, Contents of Application, and in the rezoning application form.

      (1) **Development thresholds.** The minimum district size or gross floor area required for a MXPD may vary according to the district's Comprehensive Plan land use category as indicated in the Table 6.8-18, MXPD Minimum Thresholds, and the requirements of Sec.6.8-A.2.a.(1), Thresholds.

TABLE 6.8-13
MXPD MINIMUM THRESHOLDS

Land Use Category	Minimum Gross Floor Area	Minimum Acreage
Commercial Low Office	20,001	3.01
Commercial Low	20,001	3.01
Commercial High Office	50,001	10.01
Commercial High	50,001	10.01

(2) **Contiguous land.** MXPDs shall be developed on contiguous lots or tracts.

(3) **Density.** The Standard Density and Planned Development Density for a MXPD shall be as indicated on the Comprehensive Plan Land Use Atlas. In cases where an underlying residential density is not indicated for a commercial land use designation, the Planning, Zoning and Building shall assign a density based upon the residential densities surrounding the proposed MXPD. See Sec. 6.8-A.3, Residential density and land use categories, for additional density requirements.

(4) **Pods.** The entire land area of a MXPD shall be designated as a Mixed-use pod. Land uses shall be grouped into this Mixed-use pod as indicated in Table 6.8-19, MXPD Mix of Land Uses; and, the standards listed below:

(a) **Design intent.** The design of the MXPD shall comply with the requirements of Sec. 6.8.A.23 (Planned Developments General—Design Objectives), in addition to the following design criteria:

(i) **Land use integration .** The design of a mixed-use pod shall zone provide for the vertical or horizontal integration of residential and commercial uses. Vertical and Horizontal integration of land uses shall include at a minimum between land uses shall include streetscape elements (trees, shrubs, benches, etc.) and open green spaces within a continuous non-vehicular circulation system to provide a transition area between commercial and residential land uses and to encourage non-vehicular circulation.

(ii) **Non-vehicular circulation and internal trip capture.** A continuous non-vehicular circulation system for pedestrians shall be designed and constructed within a MXPD which provides for safe, efficient, and desirable circulation. MXPDs shall demonstrate the ability to achieve an internal trip capture concurrent with the build-out of the project, see Sec. 6.8-E.3.b.(2), Transportation program;

(iii) **Mix of land uses.** The applicant shall propose a mix of land uses which provide commercial service uses for the MXPD population and the surrounding communities;

(iv) **Recreation.** Recreational opportunities shall be provided to meet the needs of the residential population of a MXPD in accordance with Sec. 7.12, Park and recreation standards and this section;

(v) **MXPDs adjacent to residential land uses.** MXPDs shall be designed to create a transitional land use area to separate non residential land uses from residential land uses located outside of the MXPD and to separate intensive residential housing from less intensive residential housing. These transitional land use areas may vary in width based on the adjacent housing type or residential land use category. A transitional land use area is required for portions of a MXPD which are adjacent to land with a residential land use category on the Comprehensive Plan Land Use Atlas.

1) **Single-family.** MXPDs adjacent to existing single-family housing or land with a Land Use Atlas designation of medium residential five (MR5) or less shall only provide residential land uses which do not exceed three (3) stories or thirty five (35) feet in height within one hundred (100) feet of the common boundary of the MXPD and these external residential land uses.

2) **Multiple family or institutional.** MXPDs adjacent to existing multiple family housing or institutional land uses or land with a Land Use Atlas designation of high residential eight (HR8) or higher shall only provide residential land uses within one hundred (100) feet of the common boundary of the MXPD and the adjacent external residential land uses.

(vi) The number of free standing commercial buildings (out parcels or lease parcels) with vehicular circulation on four (4) sides of the building shall be limited according to the Comprehensive Plan land use category based upon the following requirements:

1) **Commercial Low Office and Commercial Low** - One (1) free standing commercial building with circulation on four (4) sides of the building shall be permitted within a MXPD;

2) **Commercial** - Two (2) free standing commercial buildings with circulation on four (4) sides shall be permitted within a MXPD; and,

3) **Commercial High Office and Commercial High** - Three (3) free standing commercial buildings are permitted within a MXPD.

(vii) **Architectural design standards.** MXPDs, shall comply with the architectural design standards of Sec. 6.6.C (Supplementary Regulations—Architectural Compatibility Standards).

TABLE 6.8 - 14
MXPD MIX OF LAND USES

Pod	Minimum	Maximum
1. Mixed-use	100%	–
a. Residential	50%	75%
b. Commercial	See Sec. 6.8.D.5.a.(2).(b)	50%
c. Recreation	110 s.f. area/person See Sec. 6.8-E.5.a.(1)	–

Notes to Table 6.8-14:

Minimum and maximum land use percentages indicated above for residential and commercial land uses are calculated by dividing the total gross floor area of a specific land use type (either residential or commercial) by the total gross floor area (residential and commercial) of the MXPD.

---

(5) **Perimeter landscape areas.** Perimeter landscape areas shall be part of a network of connecting open space corridors which comply with Sec. 6.8-A.22.b., Perimeter landscape and edge areas, and the requirements listed below:

(a) **Required locations**. A perimeter landscape area shall be provided around the entire perimeter of a MXPD. These landscape areas shall also be located between incompatible land uses. The width, planting requirements, and type of perimeter landscape area shall be provided as determined in Sec. 6.8-A.22.b. and below.

(b) **Type (C) perimeter landscape area.** A type (C) perimeter landscape buffer is required to buffer incompatible land uses within the interior and along the perimeter of the MXPD. The portion of a perimeter landscape buffer required to be a type (C) depends upon the compatibility of the surrounding land uses and the design of the MXPD. Residential land uses located outside of a MXPD shall be buffered from adjacent commercial or other nonresidential development. MXPDs with residential areas which are not incompatible with adjacent land uses by virtue of site location and design may require less buffering. A recommendation shall be made by PZB to the BCC in the form of a development order condition as to the location and type of perimeter landscape area required for the MXPD.

(6) **Design criteria.** MXPDs shall comply with Sec. 6.8-A.22, Design objectives and the following:

(a) **Pedestrian orientation and scale.** MXPDs shall be pedestrian oriented, physically recognizable and developed at a human scale:

(i) **MXPD design.** A MXPD shall be designed to allow residents to walk to commercial and recreational land uses within 1,320 feet or less. This requirement shall be met by one hundred (100%) percent of the dwelling units; and,

(ii) **Connections.** All land uses within a MXPD shall be connected by a continuous non-vehicular circulation system. This system shall be designed with streetscape elements and open green spaces to create shade from the sun, visual amenities, and a pedestrian oriented environment; and,

(b) **Circulation system.** A MXPD shall be designed with a circulation system based upon a hierarchy of transportation methods. In descending order of importance, the hierarchy shall consider pedestrians as the most important, followed by cyclists, mass transit and automobiles. This system shall be designed to connect and provide access between land uses within the MXPD and adjacent land uses within the surrounding communities, by complying with Sec. 6.8-E.6.b.(5), Parking requirements and access, and the following:

(i) **Designation.** A MXPD shall be designed with a pedestrian and bicycle circulation system; and,

(ii) **Parking areas.** Parking areas shall be designed to encourage the pedestrian nature of the MXPD. The types of uses proposed and the location and design of buildings and parking areas shall facilitate a reduction in parking requirements through a sharing of parking spaces.

b. **Regulating plan.** The regulating plan shall provide a comprehensive graphic and written description of the function and development of the MXPD by complying with Sec. 6.8.A.8.c., Regulating Plan and including but not limited to:

(1) **Flexible regulations.** The applicant may request to deviate from certain property development regulations (specifically indicated as flexible regulations) within Table 6.8-21, MXPD Minimum Setbacks.

(2) **Transportation program.** The applicant shall provide a transportation program which includes a traffic study demonstrating the ability of the MXPD to achieve a significant internal trip capture rate concurrent with the build-out of the district; and,

(3) **Street and pathway cross-sections.** The applicant shall provide street and pathway cross-sections.

c. **Land use justification report.** A land use justification report shall be provided to justify and explain the amount of commercial, residential and recreational land uses proposed and describe the methods used to calculate these percentages, including the raw data used (the assumptions made for proposed population counts and employment projections), the analysis procedures and the resulting land use mix recommendations based on projected income levels, housing types, etc. The justification report shall also address the amount, if any, of affordable housing proposed and the following:

(1) **Commercial pod.** The applicant shall document the breakdown of commercial uses proposed including the amount of commercial service land uses proposed in respect to the population of the MXPD, (expressed in terms of gross square footage per person). Commercial uses within a MXPD shall provide, but shall not be limited to, commercial service uses for the residential population of the development;

(2) **Recreation areas.** A MXPD shall be designed with areas designated for useable open green space and recreation based on the residential population of the MXPD.

(a) **Recreation report.** A written report shall be submitted as part of the justification report which describes the passive and active recreation available to the residential population of the MXPD. This report shall include, but is not limited to:

(i) The types of passive recreation proposed and a total acreage amount;

(ii) The types of active recreation proposed including a list and a cost estimation of the site improvements and a total acreage amount;

(iii) The methodology used to calculate the minimum amount of recreation required based on population and the following:

1) The requirements of Art. 7.12, Park and recreation standards, and,
2) The requirements of this section.

In cases of conflict between the recreation requirements of the sections listed above, the stricter regulation shall apply to the extent of the conflict.

(iv) The proposed connections (bike lanes, pedestrian paths, etc.) used to connect the land uses.

4. **Administration.**

   a. **Conditions of approval.** The Development Review Committee and the Zoning Commission may recommend, and the BCC may impose conditions of approval upon the development order according to Sec. 6.8-A., Conditions.

   b. **Development Review Committee (DRC).** Prior to Zoning Commission and following approval by the BCC, the Preliminary Development Plan, elevations or perspectives, regulating plan, and justification report shall be submitted for review and certification by the DRC according to Art. 5, Development Review Procedures and Sec. 6.8-A.14., Action of DRC. Changes to previously approved MXPDs which exceed the limits of the DRC, shall comply with the modification options contained in Sec. 6.8-A, Planned Development District Regulations,

   c. **Phasing controls and platting.** Each MXPD shall be subject to the time limitation and review requirements of Sec. 5.8 (Compliance with time limitations) and Sec. 6.8.A.20 (Phasing controls and platting) and proceed in a reasonably continuous and timely manner with the MXPD development order and the requirements listed below:

      (1) **Recreation areas.** The platting of recreation areas within a MXPD shall conform to the requirements of Sec. 7.12, Park and Recreation Standards.

   d. **Property owners association.** A property owners association shall be formed to manage the common areas within a MXPD concurrent with the recording of the first plat.

5. **Land uses.** Table 6.8-2, (Planned Development District Use Regulations Schedule) indicates the pods and the corresponding land uses allowed within a MXPD unless otherwise restricted by conditions included in the development order. MXPD land uses are subject to the following provisions:

   a. **Pods.** The entire MXPD shall be designated as a Mixed-use pod and shall graphically indicate the location and amount of the following land uses on the Preliminary Development Plan:

      (1) **Recreation.** Recreational land uses shall include passive recreation areas, and active recreation areas. A minimum of one hundred and ten (110) square feet of gross lot area per person (based on the total approved population of the BCC approved dwelling units) for recreational purposes shall be designated on the Preliminary Development Plan. Also, a continuous non-vehicular circulation system shall be indicated to connect the land uses within a MXPD. This circulation system may include, but is not limited to, pedestrian paths or sidewalks and bicycle paths or lanes to encourage pedestrian access and non-vehicular circulation . The recreation facilities required by this section are intended for the sole use of the residents and guests of the MXPD.;

         (a) **Recreation threshold.** MXPDs shall provide the minimum amount of recreation to comply with Sec. 7.12, Park and Recreation Standards, and the standards listed below;

            (i) **Optional recreation.** MXPDs with a population equal to or less than seventy seven (77) people, (dwelling units x 2.4 = population) shall not be required to provide on site recreational facilities but shall comply with recreation options offered in Sec. 7.12, Park and Recreation Standards.

(ii) **Minimum area.** MXPDs with a population larger than seventy seven (77) people shall provide a recreation area equal to one hundred ten (110) square feet of lot area per person and shall comply with the requirement of Sec. 7.12, Park and Recreation Standards;

(b) **Neighborhood parks.** In addition to the requirements of Sec. 7.12, Park and Recreation Standards, a MXPD may provide neighborhood parks which are mostly passive in nature. If a neighborhood park is proposed, the following design standards shall apply:

(i) **Minimum area.** A Neighborhood park shall have a minimum area of eight thousand four hundred (8,400) square feet and a minimum lot width and depth of sixty (60) feet;

(c) **Parking.** Parking spaces are not required for recreation areas within a MXPD. However, if parking is provided, a maximum of ten (10%) percent of a recreation area shall be paved for parking.

(d) **Pedestrian system.** All recreation facilities shall provide a continuous sidewalk or other pedestrian path approved by PZB. This path shall connect the recreational site improvements (pool, hard surface courts, benches, etc.) to the surrounding MXPD continuous non-vehicular circulation system.

(2) **Mixed-use pod.** This pod is intended to provide residential uses and commercial land uses which are horizontally or vertically integrated into one development, see Table 6.8- 19, MXPD Mix of Land Uses;

(a) **Residential use.** Residential uses within a MXPD shall be regulated by maximum density and maximum residential gross floor area. A minimum of fifty (50%) percent of the gross floor area on the Preliminary Development Plan shall be designated for residential uses and shall comply with Table 6.8-2, Planned Development District Use Regulations Schedule under the PUD heading for the residential pod.; and,

(b) **Commercial use.** The minimum required commercial building area is calculated by multiplying the projected population of the MXPD, (dwelling units X 2.4), by the constant (8.75) which equals the minimum amount of commercial gross square footage required for a MXPD.

(i) **Hours of operation.** Commercial and mixed-use pods shall not commence business activities (including delivery and stocking operations) prior to 6:00 a.m. nor continue activities later than 11:00 p.m. These operational limitations shall apply to all nonresidential land uses within three hundred (300) feet from a dwelling unit.

(ii) **Open storage.** No open storage or placement of any material, refuse equipment or debris shall be permitted in the rear of any structure.

(iii) **Outdoor speakers.** No outdoor loudspeaker systems shall be permitted.

(iv) **Rooftop screening.** All roof-top mechanical and electrical equipment shall be screened so as not to be visible from adjacent land uses. The screen shall be opaque and extend from the roof of the building to a minimum of six (6) inches above the height of the object intended for screening.

6. **Property development regulations**. The property development regulations within a MXPD shall be as indicated in Table 6.8-20, MXPD Minimum Dimensions and Building Intensity and Table 6.8-21, MXPD Minimum Setbacks, for the applicable pod, unless otherwise provided in the approved Preliminary Development Plan or in the MXPD development order.

TABLE 6.8 - 15
MXPD MINIMUM DIMENSIONS AND BUILDING INTENSITY

Land Use Category	Minimum District Dimensions			Maximum FAR	Maximum Building Coverage
	Frontage	Width	Depth		
Commercial Low Office and Commercial Low	100'	100'	150'	.45	.30
Commercial High Office and Commercial High	300'	300'	300'	.85	.40

NOTES to Table 6.8-15:
-Maximum FAR (floor area to lot area ratio) shall include the gross floor area of all buildings (residential and commercial) within the MXPD including parking garages) and shall be calculated on the net area of the MXPD. The net area of a MXPD shall be calculated by subtracting the areas used for parking (spaces, aisles and roads) from the gross area of the MXPD.

TABLE 6.8 - 16
MXPD MINIMUM SETBACKS

Land Use Type	Minimum Building Setbacks (ft.) and Separations			
	Front	Side*	Street	Rear*
Residential - Commercial (vertically integrated)	25'	40' - R 15' - C	25'	40' - R 25' - C
Commercial (horizontal integration)	25'	40' - R 15' - C	25'	50' - R 20' - C

NOTES to Table 6.8-16:
C - Abutting non-residentially zoned lot.
R - Abutting residentially zoned lot.
* Indicates that the regulation is flexible and may be modified by complying with Sec. 6.8-A.7.e., Regulating Plan.

- Setbacks shall be measured from perimeter property lines, perimeter landscape areas, canal rights of way, residential access streets and road rights of way.
- Separations shall apply to the proximity of one building (residential to residential, commercial to commercial) to another.
- Recreation buildings and other structures allowed within a MXPD which are not considered accessory structures or residential uses shall comply with the setback and separation requirements of this section.
- The building setbacks indicated above are based on a maximum building height of thirty five (35) feet. All structures exceeding thirty five (35) in height shall provide the applicable setback stated in Table 6.8-21, above, and an additional setback of one (1) horizontal foot for each one (1) vertical foot of building exceeding thirty five (35) feet in height.
- Horizontally integrated residential land uses shall comply with Sec. 6.5, Property Development Regulations, for the RM-Residential Multiple Family District and Sec. 6.4, Use regulations and Definitions, for the applicable housing type.
- Residential building setbacks and separations shall be measured from the inside edge of all perimeter landscape areas and from the proximity of one building to another. Commercial buildings and vertically integrated building setbacks and separations shall be measured from perimeter property lines and the proximity of one building to another.

a. **Residential uses.** Residential land uses shall comply with the following requirements and property development regulations of Sec. 6.8-B, PUD:

(1) Sec. 6.8-B.6.b.(2), residential accessory uses and structures; and,
(2) Sec. 6.8-B.7 (entire section), property development regulations.

b. **Commercial uses.** Commercial uses shall comply with the regulations in Table 6.8-20, MXPD Minimum Dimensions and Building Intensity and Table 6.8-21, MXPD Minimum Setbacks and the requirements of this section.

c. **Road improvements.** The Board of County Commissioners may condition a MXPD to provide certain road improvements within the road right of way or elsewhere within a MXPD, in addition to the land development improvements required for the subdivision or platting of land. These conditional improvements are intended to forward certain goals of the Comprehensive Plan such as: assuring the public health, safety and welfare; facilitating non-vehicular circulation; implementing the linked Open Space, Scenic Corridor and other applicable County programs; and improving the neighborhood aesthetics. These conditional right-of-way improvements may include, but are not limited to street lighting, median landscaping, street trees, underground utilities, and bike lanes. See Sec. 6.8-A.23.d, Road improvements.

d. **Parking requirements and location.** MXPDs shall comply with Sec. 7.2, (Off-street parking regulations) and the parking and loading requirements below:

(1) **Calculation rate.** Parking spaces for general and special permit uses shall be calculated at a rate of one (1) space per two hundred (200 s.f.) of gross floor area. Requested uses shall provide parking according to the specific use requirements listed in Sec. 7.2, (Off-street parking regulations)
(2) **Maximum parking provided.** The total number of parking spaces provided for a MXPD shall not exceed the minimum number required to serve the development based upon this section and Sec. 7.2, (Off-street parking regulations).
(3) **MXPD parking reduction bonus.** MXPDs with a total non-residential gross floor area of eighty thousand (80,000) square feet may reduce the parking calculation ratio rate for general and special permit land uses for the amount of non-residential gross floor area above eighty thousand (80,000) square feet and equal to or less than one hundred twenty five thousand (125,000) square feet. This parking calculation rate reduction is limited to non-residential building area and shall be applied only to gross floor area. The gross floor area within the range identified above may be calculated at a reduced ratio of one (1) space per five hundred (500) square feet of gross floor area.
(4) **Shared parking.** Credit toward reducing the minimum number of required parking spaces for a MXPD may be given for the submittal and approval of a shared parking study conforming to the requirements of Sec. 7.2.D.8 (Shared Parking).
(5) **Distance.** Parking spaces shall be located within easy walking distance, four hundred (400) linear feet, of a public entrance or exit of a building. This measurement shall be taken beginning at the perimeter of a parking space and extend along a pedestrian pathway or vehicular paved drive intended for use by pedestrians for entering or existing the buildings on site from the parking area.

(6) **Location.** A minimum of twenty five (25%) percent of parking shall be located within the side or rear setback of a building.

(7) **Parking agreements.** Property owners within a MXPD shall record cross-access and shared-parking agreements with adjacent lot owners if required by PZB.

e. **Landscape requirements.** A MXPD shall be landscaped according to Sec. 7.3 (Landscaping and buffering), this section, the conditions on the development order or final site plan/final subdivision plan and the regulating plan.

[Ord. No. 93-4]

[Ord. No. 93-4; February 2, 1993]

E. MUPD, Multiple Use Planned Development District.

1. **Purpose and intent.** The purpose of the MUPD district is twofold: 1. to promote the design of unified, multiple use developments for land which has a rural residential 10, commercial, industrial, or commercial recreation designation on the Land Use Atlas, see Table 6.8-1, Planned Development District Densities and Corresponding Land Use Categories; and, 2. to provide for the efficient use of land by the integration of multiple uses within a single development.

   The intent of the MUPD is to provide for the development of multiple nonresidential uses with enlightened and imaginative approaches to community planning, including but not limited to:

   a. Allowing flexibility of certain property development regulations;

   b. Applying certain property development regulations to the entire MUPD rather than individual lots, such as but not limited to:

      (1) Access;
      (2) Parking;
      (3) Lot size and dimensions;
      (4) Lot frontage; and,
      (5) Landscaping.

   c. Designing for architectural compatibility between land uses for buildings and signage.

2. **Applicability.** The requirements of this section shall apply to all MUPDs, whether new or amended, within unincorporated Palm Beach County and shall comply with Sec. 6.8-2, and in accordance with Sec. 1.5,. In cases of conflict between this section and other sections of the ULDC, the provisions of this section shall apply to the extent of the conflict.

3. **Previous approvals.** Modifications to previously approved Planned Neighborhood Commercial Developments, Planned General Commercial Development, Large-scale community or regional shopping centers (thirty thousand (30,000) square feet or fifty thousand (50,000) square feet of total floor area or more), Planned Office Business Park, and Planned Industrial Park Development special exceptions shall be consistent with the character of the land uses approved for the area and shall comply with the following regulations:

   a. **Modifications of special exceptions.** Applications for modifications to the special exceptions listed above shall comply with Sec. 1.5, Exemptions: Effect of code and amendments on previously approved development orders; and,

   b. **Modifications of Planned Developments.** Applications for modification of Planned Developments shall comply with the application and procedural requirements of Sec. 6.8-A, Planned Development Regulations.

4. **Application.** The applicant shall provide a Preliminary Development Plan, and a regulating plan. These documents shall demonstrate compliance with Sec. 6.8-A, Planned Development District Regulations, this section, the requirements listed in the rezoning application form and other requirements, as may be required by PZB to process a rezoning or zoning amendment application.

   a. **Preliminary Development Plan.** A MUPD shall be governed by a Preliminary Development Plan approved by the BCC which illustrates, in a graphic, written and tabular form, how the MUPD is designed and phased. The requirements of a Preliminary Development Plan are found below and in the rezoning application form available from PZB.

      (1) **Minimum development thresholds.** The minimum development thresholds of minimum lot area and minimum building square footage for a MUPD may vary according to the MUPDs Comprehensive Plan land use category as indicated in Table 6.8-22, MUPD Minimum Development Thresholds.

TABLE 6.8-17
MUPD MINIMUM DEVELOPMENT THRESHOLDS

Land Use Category	Minimum Gross Floor Area	Minimum Acreage
RR 10	50,001	15.00
Commercial Low Office	20,001	3.01
Commercial Low	20,001	3.01
Commercial High Office	50,001	10.01
Commercial High	50,001	10.01
Industrial	100,001	20.01
Commercial Recreation	100,001	10.01

      (2) **Contiguous land.** MUPDs shall be developed on contiguous lots or tracts.
      (3) **Land Use Atlas.** MUPDs correspond to the land use categories indicated in Table 6.8-1, Planned Development District Densities and Corresponding Land Use Categories.
      (4) **Design intent.** The design of the MUPD shall comply with the requirements of Sec. 6.8.A.23 (Planned Developments General—Design Objectives), in addition to the following design criteria:
         (a) **Non-vehicular circulation system.** A continuous circulation system for pedestrians and bicycles shall connect all of the land uses within a MUPD to encourage non-vehicular circulation; and,

(b) The number of free standing commercial buildings with vehicular circulation on four (4) sides of the building shall be limited according to the Comprehensive Plan land use category based upon the following requirements:

i) Rural Residential 10 or 20 - One (1) free standing commercial building is permitted within a MUPD;

ii) Commercial Low Office and Commercial Low - One (1) free standing commercial building is permitted within a MUPD;

iii) Commercial High Office and Commercial High - Three (3) free standing commercial buildings are permitted within a MUPD;

iv) Industrial - Two (2) free standing commercial buildings are permitted within a MUPD; and,

v) Commercial Recreation - Three (3) free standing commercial buildings are permitted within a MUPD.

(c) **Architectural design standards**. MUPD submittals for development order approvals, especially building permits, shall comply with the architectural design standards of Sec. 6.6.C (Supplementary Regulations—Architectural Compatibility Standards).

(5) **Perimeter landscape areas.** Perimeter landscape areas shall comply with Sec. 6.8-A.22.b, Perimeter landscape and edge areas and the requirements listed below:

(a) **Required locations.** A perimeter landscape area shall be provided around the entire perimeter of a MUPD. The width, planting requirements, and type of perimeter landscape areas provided around a MUPD shall be as determined in Sec. 6.8-A.22.b, and below.

(b) **Type (C) perimeter landscape area.** A type (C) perimeter landscape area is required to buffer incompatible land uses outside the MUPD. The portion of a perimeter landscape area required to be a type (C) depends upon the compatibility of the surrounding land uses and the design of the MUPD. Adjacent residential land uses shall be buffered from a MUPD by a type (C) perimeter landscape area. MUPDs adjacent to nonresidential land uses which are not incompatible may require less buffering. A recommendation shall be made by PZB to the BCC as a development order condition as to the location and planting requirements of perimeter landscape areas based on the surrounding land uses, Sec. 6.8-A.22.b.(4), the proposed site design and Table 6.8-3, Perimeter Landscape Areas of the buffering required.

(6) **Pedestrian orientation and scale.** MUPDs shall be pedestrian oriented, and developed at a human scale:

(a) **Connections.** Land uses shall be connected by pedestrian paths or sidewalks, and bicycle paths or bicycle lanes; and,

(b) **Pedestrian and bicycle accessory facilities.** MUPDs shall provide facilities for seating, bicycle parking, etc. to encourage non-vehicular on-site circulation.

(7) **Circulation system.** MUPDs shall be designed with a circulation system based upon a hierarchy of transportation methods. In descending order of importance, the hierarchy shall consider pedestrians as the most important, followed by cyclists, mass transit and automobiles. This system shall be designed to connect and provide access between land uses within the MUPD and directly adjacent to the MUPD. MUPDs shall comply with Sec. 6.8-F.7.a.(6), Parking requirements and access, and the types of uses proposed and the location and design of buildings and parking areas shall facilitate a reduction in parking requirements through a sharing of parking spaces.

b. **Regulating plan.** The regulating plan shall provide a comprehensive graphic and written description of the function and development of the MUPD, including but not limited to flexible property development regulations, a transportation program, and street and pathway cross-sections. See Sec. 6.8-A.7.e, Regulating plan, for additional requirements.

(1) **Flexible regulations.** The developer may request to deviate from certain property development regulations (specifically indicated as flexible regulations) within Table 6.8 -23, MUPD Property Development Regulations.

5. **Administration.**

a. **Conditions of approval.** The Development Review Committee and the Zoning Commission may recommend, and the BCC may impose conditions of approval upon the development order according to Sec. 6.8-A.13.c., Conditions.

b. **Development Review Committee (DRC).** Following approval by the Board of County Commissioners, the Preliminary Development Plan and regulating plan shall be submitted for review and certification by the DRC according to Art. 5, Development Review Procedures and Sec. 6.8-A.14., Action by DRC. Changes to previously approved MUPDs which exceed the limits of the DRC shall comply with the modification options contained in Sec. 6.8-A, Planned Development District Regulations, or Sec. 5.7, Variances.

c. **Phasing controls and platting.** Each MUPD shall be subject to the time limitation and review requirements of Sec. 5.8 (Compliance with time limitations) and Sec. 6.8.A.20 (Phasing controls and platting) and shall proceed in a reasonably continuous and timely manner.

d. **Property owners association.** A property owners association shall be formed to manage the common areas concurrent with the recording of the first plat with the Clerk of the Court.

6. **Land Uses.** Table 6.8-2 (Planned Development District Use Regulations Schedule) indicates the pods and the corresponding land uses unless otherwise restricted by conditions included in the development order.

a. **Pods.** MUPDs shall provide one of the following pods depending upon the project's Comprehensive Plan land use category:

(1) **Commercial pod.** A commercial pod is intended to provide service, retail and professional office uses, see Table 6.8-2, Planned Development District Use Regulation Schedule.
(2) **Industrial pod.** An industrial pod is intended to provide light industrial uses, see Table 6.8-2, Planned Development District Use Regulation Schedule.
(3) **Commercial recreation pod.** A commercial recreation pod is intended to provide multiple recreational uses, see Table 6.8-2, Planned Development District Use Regulation Schedule.
(4) **Commercial agricultural.** A commercial agricultural pod is intended to provide multiple agricultural support uses, see Table 6.8-2, Planned Development District Use Regulation Schedule.

b. **Supplemental use regulations.** All land uses within a MUPD shall comply with the requirements listed below unless specifically allowed by condition within the development order:
   (1) **Open storage.** No open storage or placement of any material, refuse equipment or debris shall be permitted in the rear of any structure.
   (2) **Outdoor speakers.** No outdoor loudspeaker systems shall be permitted.
   (3) **Rooftop screening.** All roof-top mechanical and electrical equipment shall be screened so as not to be visible from adjacent land uses. The screen shall be opaque and extend from the roof of the building to the full height of the objects being screened.

7. **Property development regulations.** The property development regulations within a MUPD shall be as indicated in Table 6.8-23, Property Development Regulations for the applicable pod, unless otherwise specifically provided in the approved Preliminary Development Plan or in the MUPD development order.

Table 6.8 - 18
MUPD PROPERTY DEVELOPMENT REGULATIONS

Land Use Atlas Designation	Minimum District Dimensions			Maximum FAR	Maximum Building Coverage	Minimum Building Setbacks (ft.)			
	Size	Width	Depth			Front	Side*	Street	Rear*
Commercial Low	3 ac.	200'	250'	.35	.25	25'	C - 15' R - 30'	25'	C - 20' R - 30'
Commercial High	5 ac.	300'	300'	.50	.30	30'	C - 15' R - 30'	30'	C - 20' R - 30'
Commercial Low Office	3 ac.	200'	250'	.35	.25	25'	C - 15' R - 30'	25'	C - 20' R - 30'
Commercial High Office	5 ac.	300'	300'	.50	.30	30'	C - 15' R - 30'	30'	C - 20' R - 30'
Industrial	5 ac.	300'	300'	.45	.45	30'	C - 15' R - 40'	30'	C - 20' R - 40'
Commercial Recreation	5 ac.	300'	300'	.50	.30	30'	C - 15' R - 40'	30'	C - 20' R - 40'
Rural Residential 10	10 ac. or 20 ac.	300'	300'	.15	.10	50'	C - 50' R - 100'	50'	C - 50' R - 100'

NOTES to Table 6.8-18:

C - Indicates the building setback if the lot abuts a non-residentially zoned or designated lot.

R - Indicates the building setback if the lot abuts a residentially zoned or designated lot.

* Indicates that the property development regulation is flexible and may be modified by complying with Sec. 6.8.B.4.b, Regulating plan.

- The building setbacks indicated above are based on a maximum building height of thirty five (35) feet. All structures exceeding thirty five (35) feet in height shall provide the applicable setback stated in Table 6.8-23 and an additional setback of one (1) horizontal foot for each one (1) vertical foot of building exceeding thirty five (35) feet in height.

- Building setbacks shall be measured from the perimeter property lines.

a. **Road improvements.** The Board of County Commissioners may condition a MUPD to provide certain road improvements within the road right of way, in addition to the land development improvements required for the subdivision or platting of land. These conditional improvements are intended to forward certain goals of the Comprehensive Plan such as: assuring the public health, safety and welfare; facilitating non-vehicular circulation; implementing the linked Open Space, Scenic Corridor and other applicable County programs; and improving the neighborhood aesthetics. These conditional road improvements may include, but are not limited to street lighting, median landscaping, street trees, underground utilities, and bike lanes. See Sec. 6.8-A.22.d, Road improvements.

b. **Parking requirements and access.** MUPDs shall comply with Sec. 7.2, (Off-street parking regulations) and the parking and loading requirements of this section and below.

(1) **Calculation rate.** Parking spaces shall be calculated at a rate of one (1) space per two hundred (200 s.f.) square feet of gross floor area for general and special permit uses. Requested uses shall comply with the parking requirements listed in Sec. 7.2, (Off-street parking regulations) for specific uses.

(2) **Minimum parking provided.** The total number of parking spaces provided for a MUPD shall not exceed the minimum number required to serve the development as indicated by Sec. 7.2 and the parking requirements of this section.

(3) **MUPD parking reduction bonus.** MUPDs with a total non-residential gross floor area exceeding eighty thousand (80,000) square feet may reduce the parking calculation ratio rate for general and special permit uses for the amount of gross non-residential floor area above eighty thousand (80,000) square feet and equal to or less than one hundred twenty five thousand (125,000) square feet. This parking calculation rate reduction is limited to non-residential building area and shall be applied only to gross floor area. The gross floor area within the range identified above may be calculated at a reduced ratio of one (1) space per five hundred (500) square feet of gross floor area.

(4) **Shared parking.** Credit toward reducing the minimum number of required parking spaces for a MUPD may be given for the submittal and approval of a shared parking study conforming to the requirements of Sec. 7.2.D.8 (Shared Parking).

(5) **Distance.** Parking spaces shall be located within easy walking distance, four hundred (400) linear feet, of a public entrance or exit of a building. This measurement shall be taken beginning at the perimeter of a parking space and extend along a pedestrian pathway or vehicular paved drive intended for use by pedestrians for entering or existing the buildings on site from the parking area.

(6) **Location.** A minimum of twenty (20%) percent of parking shall be located to the side or rear of a building.

(7) **Parking agreements.** Property owners within a MUPD shall record cross-access and shared-parking agreements with adjacent lot owners if sanctioned by PZB; and,

c. **Landscape requirements.** A MUPD shall be landscaped according to Sec. 7.3, Landscaping and buffering, the requirements of this section, the conditions on the development order or final site plan/final subdivision plan, and the regulating plan.

[Ord. No. 93-4] [Ord. No. 95-24]
[Ord. No. 93-4; February 2, 1993] [Ord. No. 95-24; July 11, 1995]

F. PIPD, Planned Industrial Park Development District.

1. **Purpose and intent.** The purpose of a PIPD is to offer an industrial development alternative which: provides employment opportunities; and, encourages internal automobile trip capture by offering justifiable amounts of commercial and residential uses.

   The intent of the PIPD is to promote the design of planned industrial developments which provide enlightened and imaginative approaches to community planning and site design. These approaches, include but are not limited to:

   a. The preservation of natural features, scenic areas and native vegetation;

   b. The promotion of efficient and economical industrial land use districts;

   c. The encouragement of industrial linkages by process, product, or service;

   d. The provision of on-site essential services for industries, employees, and clients;

   e. The protection of nearby existing and future non-industrial land uses and activities;

   f. The arrangement of buildings and land use intensities, as they relate to surrounding land uses to minimize and mitigate negative impacts;

   g. The location of the PIPD near convenient access to transportation facilities such as interstate highways, major trucking routes, shipping and/or railroad lines; and,

   h. The encouragement of industrial expansion to the County's economic base through new investment.

2. **Applicability**. The requirements of this section, Sec. 6.8-A.2, and Sec. 1.5, shall apply to all PIPDs, whether new or amended, within unincorporated Palm Beach County. In cases of conflict between this section and other sections of the ULDC, the provisions of this section shall apply to the extent of the conflict.

3. **Previous approvals.** Modifications to previously approved PIPDs shall comply be consistent with the character of the land uses approved for the area and shall comply with the requirements of Sec. 1.5, and the applicability section above.

4. **Application.** The applicant shall provide a Preliminary Development Plan, a regulating plan and a justification report. These documents shall demonstrate compliance with Sec. 6.8, Planned Development District, this section and other information as may be required by PZB to process a rezoning or zoning amendment.

   a. **Preliminary Development Plan.** A PIPD shall be governed by a Preliminary Development Plan approved by the BCC which illustrates, in a graphic, written and tabular form, how the PIPD is designed and phased. The requirements of a Preliminary Development Plan are found below, in Sec. 6.8-A.7, Contents of application, and the rezoning application form.

(1) **Development threshold.** The minimum area for a PIPD shall be fifty (50) acres.

(2) **Contiguous land.** PIPDs shall be developed in contiguous lots or tracts. Land may be added to a PIPD provided the land is contiguous and the resulting project meets the intent of Sec. 6.8, Planned Development District Regulations and this section.

(3) **Density.** The minimum development density, standard development density and planned development density for a PIPD shall be the underlying residential land use category as indicated on the Comprehensive Plan Land Use Atlas. Parcels of land with an industrial land use category and no underlying residential land use category shall be assigned a residential land use category by the Planning Division. The Planning Division shall base the assignment of a residential land use category upon the density of the land surrounding the proposed PIPD. Sec. 6.8-A.3, Residential density and land use categories, contains additional density and land use requirements.

(4) **Pods.** PIPDs are allowed limited flexibility in establishing the proper mix of uses. Land uses shall be grouped into pods which limit and define the types of uses within a specific area of a PIPD, see Sec.6.8-G.5, Use regulations. The amount and type of each pod may vary depending upon: the results of Sec. 6.8-G.4.c, Land use justification report; the requirements of Table 6.8-24, PIPD Mix of Land Uses; and the standards listed below:

(a) **Design intent.** The design of the PIPD shall comply with the requirements of Sec. 6.8-A.20, Design objectives, in addition to the following:

i) **Industrial land uses.** A PIPD shall be a predominantly industrial development;

ii) **Perimeter landscape areas.** Perimeter landscape areas shall accommodate native vegetation preservation and protection and provide, buffering and green areas, see Sec. 6.8-G.4.a.(6), Perimeter landscape areas;

iii) **Sector planning area (optional).** PIPDs have the option of providing limited commercial and residential uses subject to the complying with the following requirements:

a) **PIPD district.** The amount of residential and commercial uses shall be based on the amount of jobs created (work force) by the industrial uses within the PIPD and the availability of the types of housing needed for the projected work force.

b) **Land use balance.** The amount of residential and commercial uses proposed shall be based on lessening land use imbalances within a sector area, including but not limited to, employment, affordable housing, and retail or commercial service uses, see Sec. 6.8-G.5.a.(4), Sector pod;

c) **Commercial land uses.** Commercial land uses may be proposed singularly (without a residential pod) based on the needs of the projected work force or in conjunction with a residential pod based on the needs of the projected work force and the residential population;

d) **Internal trip capture.** PIPDs with commercial, mixed-use, or residential pods shall demonstrate the ability to achieve a significant internal trip capture concurrent with the build-out of the PIPD;

e) **Mix of land uses.** PIPDs shall provide a balanced mix of land uses to provide for the needs of the PIPD's residential population (if proposed) and the projected work force;

f) **Recreation.** PIPDs with a residential population shall provide recreation to meet the needs of the residential population (see Sec. 6.8-G.6.a.); and,

g) **Transitional land uses.** Housing or recreational land uses shall be located between the PIPD and adjacent residential uses outside of the PIPD, as determined by PZB to provide a transitional area between on-site nonresidential uses and adjacent residential land uses.

(5) **Land use mix.** Table 6.8 - 24, PIPD Mix of Land Uses, indicates the range of each pod required for a PIPD.

TABLE 6.8 - 19
PIPD MIX OF LAND USES

Pods	Minimum	Maximum
1. Industrial	**55%**	**100%**
a. Light	20%	100% *
b. General	–	50% *
2. Commercial	–	[see Sec. 6.8-G.6.(4)(b)]
3. Residential	–	20% [see Sec. 6.8-G.6.(4)(a)]
4. Recreation	**110 s.f. area/person**	– [see Sec. 6.8-G.6.a.(1)]

* Percent of total Industrial land uses

(6) **Perimeter landscape areas.** Perimeter landscape areas shall be part of a network of connecting open space corridors which comply with Sec. 6.8-A.22.b, (Perimeter landscape and edge areas), and the requirements listed below:

(a) **Required locations.** A perimeter landscape area shall be provided around the entire perimeter of a PIPD. If general or light industrial uses abut the perimeter of the PIPD, a minimum twenty five (25) feet wide type (C) perimeter landscape area shall be provided. Landscape areas shall also be located between incompatible land uses and pods. The width, planting requirement, and type of perimeter landscape areas provided within or around a PIPD shall be as determined in Sec. 6.8-A.22.b, and below:

(b) **Type (C) perimeter landscape area.** A type (C) perimeter landscape buffer is required to buffer incompatible pods and land uses. The portion of a perimeter landscape buffer required to be a Type (C) depends upon the compatibility of the surrounding land uses and the design of the pods. Commercial and industrial land uses shall be buffered from surrounding residential development. A recommendation shall be made by PZB to the BCC as a development order condition as to the type and the location of perimeter landscape areas based on the surrounding land uses, Sec. 6.8-A.22.b.4, the proposed site design and Table 6.8-3, Perimeter Landscape Areas.

(7) **Pedestrian orientation and scale.** PIPDs with residential or commercial sector pod shall be pedestrian oriented, and developed at a human scale. Sector pods shall comply with the following design standards:

(a) **Size and shape.** PIPD sector areas with a residential pod shall be limited in size and shape to allow residents to walk from residential to commercial service uses within 1,320 feet or less. This requirement shall be met by ninety five (95%) percent of the housing units within the PIPD;

(b) **Connections.** A PIPD's residences, shopping, employment and recreational uses shall be connected by a continuous non-vehicular circulation system.

(8) **Parking areas.** PIPDs with commercial, mixed-use, or residential land uses shall design the buildings and parking areas within these pods to facilitate a reduction in parking through a sharing of spaces. Also, parking areas within sector pods shall be designed to encourage the pedestrian nature of the PIPD.

b. **Regulating plan.** The regulating plan shall provide a comprehensive graphic and written description of the function and development of the PIPD, including but not limited to flexible property development regulations, a transportation program, and street and pathway cross-sections. See Sec. 6.8-A.7.e., Regulating plan, for additional requirements.

(1) **Flexible regulations.** The applicant may request to deviate from certain property development regulations (specifically indicated as flexible regulations) within Table 6.8 - 27, PIPD Minimum Building Setbacks or Separations.

(2) **Transportation program.** The applicant shall provide a transportation program which complies with Sec. 6.8-A.7.e., Regulating plan and the following:

(a) **Circulation system.** The PIPD shall be designed with a circulation system based upon a hierarchy of transportation methods. In descending order of importance, the hierarchy shall consider pedestrians as the most important, followed by cyclists, mass transit and automobiles. This system shall be designed to connect and provide access between different land uses within and outside the PIPD.

(b) **Internal trip capture.** If sector land uses are proposed, the traffic study shall include information demonstrating the ability of the PIPD to achieve a significant internal trip capture rate concurrent with the build-out of the PIPD. A minimum internal trip capture rate may be conditioned by the BCC by a development order condition;

c. **Land use justification report.** PIPDs with sector land uses shall provide a land use justification report to justify and explain the amounts of these uses and recreational land uses proposed and describe the methods used to calculate the proposed land use amounts, including the raw data used (the assumptions made for proposed population counts and projected employment) and the analysis procedures. The justification report shall also address the amount, if any, of affordable housing proposed and the following:

(1) **Commercial pod.** The Land use justification report shall state the amount (acreage and gross floor area) of commercial land uses proposed. The amount of commercial uses within a PIPD shall be based upon the residential population and the work force of the PIPD;

(2) **Boundaries.** A map showing the boundaries of the PIPD sector planning area and justification for these boundaries. A sector shall be comprised of census tracts and follow census boundaries. The composition of the tracts may vary, and one or more tracts may be used in a sector; and,

(3) **Recreation.** PIPDs with a residential population (dwelling units x 2.4) greater than seventy seven (77) people shall designate a recreation area based on the population of the PIPD .

(a) **Recreation report.** A written report shall be submitted as part of the justification report which describes the passive and active recreation proposed for the PIPD. This report shall include, but is not limited to:

i) The types of passive recreation areas and a total acreage amount;

ii) The types of active recreation areas, including a list of proposed site improvements, estimated costs, and a total acreage amount;

iii) The methodology used to calculate the minimum amount of recreation required based on the residential population of the PIPD and the following:

a) The requirements of Sec. 7.12, Park and Recreation Standards; and,

b) The requirements of this section.

In cases of conflict between the recreation requirements of the sections listed above, the stricter regulation shall apply to the extent of the conflict.

iv) The linkages (bike lanes, pedestrian paths, etc.) used to connect the recreation areas with housing.

5. **Administration.**

a. **Conditions of approval.** The BCC may impose conditions of approval upon the development order to assure the intent of this section is satisfied and that the public health, safety and welfare are provided, see Sec. 6.8-A.13,c, Conditions.

b. **Development Review Committee (DRC).** Following approval by the BCC, the Preliminary Development Plan, regulating plan, and justification report shall be submitted for review and certification by the DRC according to Art. 5, Development Review Procedures, and Sec. 6.8-A. Changes to previously approved PIPDs which exceed the limits of the DRC shall comply with the modification options contained in Sec. 6.8-A, Planned Development District Regulations.

c. **Phasing controls and platting.** PIPD shall be subject to the time limitation and review requirements of Sec. 5.8 (Compliance with time limitations) and Sec. 6.8.A.20 (Phasing controls and platting) and shall proceed in a reasonably continuous and timely manner. See Sec. 7.12, Park and Recreation Standards, for recreation phasing requirements.

d. **Property owners association.** A property owners association shall be formed to manage the common areas concurrent with the recording of the first plat with the Clerk of the Circuit Court.

6. **Use regulations.** Table 6.8-2, (Planned Development District Use Regulations Schedule) indicates the pods and the corresponding land uses unless otherwise restricted by conditions included in the development order. PIPD land uses are subject to the following provisions:

a. **Pods.** The PIPD shall be divided into the following pods to indicate the proposed land uses:

(1) **Recreation (if a residential pod is proposed).** PIPDs with a residential sector pod shall provide recreational land uses based on the population of the PIPD.

(a) **Recreation area.** PIPDs shall provide the minimum amount of recreation to comply with Sec. 7.12, Park and recreation standards, Table 6.8-24, PIPD Mix Of Land Uses, and this section. These recreation areas shall be connected to residential housing by a continuous non-vehicular circulation system which shall include but is not limited to, pedestrian paths or sidewalks and bicycle paths or bicycle lanes and driveways to encourage pedestrian access and other non-vehicular circulation. The recreation requirements of this section are intended for use by the residents of a PIPD and their guests;

i) **Minimum area.** PIPDs of seventy seven (77) people or more shall provide recreation areas in accordance with Sec. 7.12;

ii) **Location.** Recreation areas shall be located so that ninety five (95%) percent of the housing is located within a distance of six hundred (600) feet;

iii) **Parking.** Parking is not required for recreational uses. However, if parking is proposed, a maximum of ten (10%) percent of the gross lot area of a recreation site shall be paved for parking.

(2) **Industrial pod.** An industrial pod is intended to provide areas for light industrial and general industrial uses, see Table 6.8-2, Planned Development District Use Regulation Schedule.

(3) **Sector land uses.** Sector land uses shall be specifically requested and justified by the applicant as required by Sec. 6.8-G.4.c, Land use justification report and approved by the BCC.

(a) **Residential pod.** A residential pod is intended to provide areas for residential housing to aid in accommodating the work force of a PIPD. A Residential pod within a PIPD shall comply with the following regulations:

i) **Table 6.8-2, Planned Development District Use Regulations Schedule.** Land uses within a residential pod shall comply with the requirements of Table 6.8-2 under the PUD heading for the residential pod.

ii) **Residential uses.** A residential pod shall comply with the following regulations of Sec. 6.8-B, PUD:

a) Sec. 6.8-B.1, the purpose and intent section of the PUD (except for the civic requirement);

b) Sec. 6.8-B.6.a.(3),(4)&(5), residential pods shall be designated of the Preliminary Development Plan as one or more of the following residential pod types: low density, medium density or high density. Also, a PIPD residential pod may request an optional residential pod designation; and,

c) Sec. 6.8-B.6.b.(2), residential accessory uses and structures.

(b) **Commercial pod.** A commercial pod is intended to provide commercial service, retail and professional office uses to serve the needs of the population and work force within a PIPD. A commercial pod within a PIPD shall comply with the following regulations:

i) **Location.** Commercial pods shall be located and designed for the convenience of the PIPD's residents and work force. Commercial pods shall not have vehicular access from an arterial or collector that is not part of the interior circulation system of the PIPD. No commercial facility shall maintain direct physical access to any arterial or collector bordering or traversing the PIPD.

ii) **Non-vehicular circulation.** A continuous network of pedestrian and bicycle paths, and driveways shall provide convenient access from each residential dwelling unit to the commercial and mixed-use pods . This path network may include, but is not limited to, sidewalks or bike paths along streets, paths within perimeter landscape areas, and driveways connecting dwelling units with parking areas or sidewalks.

iii) **Architectural design.** The architectural design criteria of Sec. 6.6.C (Architectural Compatibility Standards) shall apply to all development within sector pods.

iv) **Area calculation.** The maximum lot area and gross floor area of the commercial pod shall be based on the following:

a) **Lot area.** The maximum commercial lot area for a PIPD shall be calculated based on the population of the dwelling units approved on the Preliminary Development Plan by the BCC, and the population of the projected work force as described in the chart below:

TABLE 6.8 - 20
PIPD COMMERCIAL ACREAGE

Population\Work force	Maximum Commercial Acreage	Gross Floor Area*
Less than 1,000	None	None
1,001 to 1,740	One (1) acre	8,759 to 15,225
1,741 to 2,990	Two (2) acres	15,234 to 26,163
2,991 to 4,970	Three (3) acres	26,171 to 43,488
4,971 to 6,970	Five (5) acres	43,496 to 60,988
6,971 to 9,950	Seven (7) acres	60,996 to 87,063
9,951 to 15,000	Ten (10) acres	87,071 to 131,250
15,001 to 26,000	Fifteen (15) acres	131,259 to 228,690

NOTES to Table 6.8-20:

* Buildable commercial gross floor area may vary depending upon lot configuration, site design, and compliance with other property development regulations, including but not limited to, vegetation preservation, building setbacks, landscaping and parking.

-The calculation of the maximum commercial lot area and gross commercial floor area for PIPDs with a population, and work force exceeding twenty six thousand (26,000) people, shall be determined by PZB on a case by case basis.

b) **Building area.** The maximum commercial building area is calculated by multiplying the projected population of the PIPD and the existing population of the planning sector area, (dwelling units x 2.4), by the constant (8.75) which equals the total amount of commercial gross floor area permitted for that population. To determine the maximum commercial gross floor area for the PIPD, the total building gross floor area of the existing commercial land uses within the sector pod must be subtracted from the total above.

v) **Commercial development requirements.** A commercial pod shall comply with the following regulations of Sec. 6.8-F, MUPD:

a) **Table 6.8-2, Planned Development District Use Regulations Schedule.** Land uses within a commercial pod shall comply with the requirements of Table 6.8-2, Planned Development District Use Regulations Schedule, under the MUPD heading for the commercial (C) or commercial high (CH) land use category;

b) Sec. 6.8-F.1, the purpose and intent section of the MUPD; and,

c) Sec. 6.8-F.4.a.(5),(6)&(7), the perimeter landscape areas, pedestrian orientation and scale, and circulation systems of a MUPD.

(c) **Mixed-use pod.** A mixed-use pod is intended to provide residential and commercial land uses integrated vertically into one building or horizontally into groups of buildings. PIPDs with a BCC approval for a contiguous commercial area greater than the development threshold below, may apply to the DRC to redesignate a mixed-use pod on the Preliminary Development Plan. The designation of a mixed-use pod on the Preliminary Development Plan without the minimum commercial acreage or the minimum gross floor area threshold below, shall require approval by the BCC. A mixed-use pod within a PIPD shall comply with the following regulations:

i) **Table 6.8-2, Planned Development District Use Regulations Schedule.** Land uses within a mixed-use pods shall comply with the requirements of Table 6.8-2, under the commercial land use category of the MXPD, Mixed-use planned development district heading.

ii) **Development thresholds.** A Mixed-use pod shall have a minimum land area equal to or larger than five and one tenth (5.01) acres or shall have a minimum gross floor area equal to or larger than fifty thousand and one (50,001) square feet.

iii) **Mixed-use development regulations.** A Mixed-use pod shall comply with the following requirements of Sec. 6.8-E, MXPD:

a) Sec. 6.8-E.1, for purpose and intent. The site design and land uses of a Mixed-use pod shall comply with the purpose and intent of the MXPD district.

b) Sec. 6.8-E.3.a.(4)-(6) for pods, perimeter landscape areas, and design criteria; and,

c) Sec. 6.8-E.5 (entire section), for land uses.

(d) **Design and land use standards.** Commercial and mixed-use land uses shall comply with Sec. 6.8-A.20, Design objectives and the following standards:

i) **Hours of operation.** Commercial and mixed use pods within three hundred (300) feet of a dwelling unit shall not commence business activities (including delivery and stocking operations) prior to 6:00 a.m. nor continue activities later than 11:00 p.m. These operational limitations shall not apply to non-residential land uses which are greater than three hundred (300) feet from a dwelling unit.

ii) **Open storage.** No open storage or placement of any material, refuse equipment or debris shall be permitted in the rear of any structure.

iii) **Outdoor speakers.** No outdoor loudspeaker systems shall be permitted; and,

iv) **Rooftop screening.** All roof-top mechanical and electrical equipment shall be screened so as not to be visible from adjacent land uses. The screen shall be opaque and extend from the roof of the building to the full height of the objects being screened.

7. **Property development regulations.** The property development regulations within a PIPD shall be as indicated in Table 6.8-26, MXPD Minimum Dimension and Maximum Intensity Regulations, and Table 6.8-27, Minimum Building Setbacks or Separations, for the applicable pod, unless otherwise specifically provided in the approved Preliminary Development Plan or in the PIPD development order.

   a. **Residential pods.** Residential pods within a PIPD shall comply with Sec. 6.8.B.7 (entire section), property development regulations of the PUD District.

   b. **Commercial pods.** Commercial pods within a PIPD shall comply with Sec. 6.8.F.7, (entire section), property development regulations of the MUPD District.

   c. **Mixed-use pods.** Mixed-use pods within a PIPD shall comply with Sec. 6.8.E.6 (entire section), property development regulations of the MXPD District.

   d. **Supplemental development standards.** Industrial pod shall comply with the following requirements:

      (1) **Screening of outdoor storage areas.** Outside storage areas shall be effectively screened from collector and arterial roads and adjacent property by walls, fences, or landscaping. Screening intended to protect adjacent property owners from negative on-site activities may bet waived, by a written request from the abutting property owner(s). All landscaping used for this purpose must meet the provisions of the Sec. 7.3 (Landscaping and Buffering), as well as the following:

      (a) Stored merchandise in light industrial areas shall not protrude above the height of the screening and shall not be visible from streets.

      (b) Walls or fences shall be a minimum of six (6) feet in height.

      (c) Storage areas shall not be located within required front setbacks or yards adjacent to residential areas.

      (d) No motor vehicle or trailer shall be stored in an abandoned or neglected state or used for storage on any lot or parcel in the development unless it is within a completely enclosed building.

TABLE 6.8 - 21
PIPD MINIMUM DIMENSION AND MAXIMUM INTENSITY REGULATIONS

Land Use Zones	Minimum Lot Dimensions			Max. FAR	Maximum Building Cover
	Size	Width and Frontage	Depth		
General Industrial	2 acres	200'	200'	45%	30%
Light Industrial	1 acre	100'	200'	45%	30%

TABLE 6.8 - 22
PIPD MINIMUM SETBACKS OR SEPARATIONS

Land Use Zones	Minimum Building Setbacks (ft.) and Separations			
	Front	Side*	Street	Rear*
General Industrial	25'	40'- R 20'- C	25'	40'- R 20'- C
Light Industrial	25'	40'- R 15'- C	25'	40'- R 15'- C

Notes to Table 6.8-22:

* Indicates that the regulation is flexible and may be modified by complying with Sec. 6.8-A.7.e., Regulating Plan.

C -Indicates the required building setback for land uses abutting a non-residential zoning district, a civic, mixed-use, commercial, or industrial pod, or a recreation area.

R -Indicates the required building setback for land uses abutting a residential zoning district or a residential pod.

-Land uses which abut a lake, canal, or preserve area which is greater than or equal to forty (40) foot in width along the boundary of the land use, may substitute a twenty (20) foot side interior or rear setback if a forty (40) foot setback is required.

-The building setbacks indicated above are based on a maximum building height of thirty five (35) feet. All structures exceeding thirty five (35) feet in height shall provide the applicable setback stated in Table 6.8-22 and an additional setback of one (1) horizontal foot for each one (1) vertical foot of building exceeding thirty five (35) feet in height.

-Building setbacks and separations shall be measured from the perimeter property lines and from the property lines (if the lot does not abut the perimeter of the PIPD). The setbacks for sector land uses shall be measured as indicated in the respective property development regulation charts.

---

e. **Right-of-way improvements.** The BCC may condition a PIPD to provide certain improvements within the road right-of-way. These improvements may be in addition to the land development improvements required for the subdivision or platting of land and are intended to forward certain goals of the Comprehensive Plan including but not limited to: assuring the health, safety and welfare of the public; facilitating and encouraging non-vehicular circulation, implementing the Linked Open Space, Scenic Corridor and other applicable County programs, and improving the aesthetics of the community. The improvements may include but are not limited to: street lights; street trees and median landscaping; bike lanes; and underground utilities (see Sec. 6-8-A.22.d, Right-of-way improvements).

f. **Parking requirements and access.** PIPDs shall comply with Sec. 7.2, (Off-street parking regulations), the requirements of the individual pods (see Sec. 6.8-G.6., Use regulations), and the parking and loading requirements of this section. If conflicts exist between these regulations, the regulations of this section shall apply to the extent of the conflict.

g. **Landscape requirements.** A PIPD shall be landscaped according to Sec. 7.3, (Landscaping and buffering), this section, the conditions on the development order, the Final Site Plan/Final Subdivision plan and the regulating plan.

[Ord. No. 93-4]
[Ord. No. 93-4; February 2, 1993]

G. MHPD, Mobile Home Park Planned Development District.

1. **Purpose and intent.** The purpose of the MHPD district is to offer a mobile home residential development alternative which: 1. Allows a limited amount of commercial uses; and, 2. Corresponds to a range of residential land use designations on the Land Use Atlas.

   The intent of the MHPD is to promote the efficient design of mobile home communities which provide enlightened and imaginative approaches to community planning and, accommodate the housing needs of those residents who prefer mobile home living and of those who desire an economic alternative to conventional dwellings. These approaches, include but are not limited to:

   a. The preservation of natural features and scenic areas;

   b. The reduction of land consumption by roads;

   c. The creation of a continuous non-vehicular circulation systems;

   d. The designation of perimeter landscape areas which provide preservation, buffering, and circulation areas; and,

   e. The establishment of neighborhood commercial service uses and recreation areas.

2. **Applicability.** The requirements of this section and Sec. 6.8-A.2, Applicability, shall apply to all MHPDs, Mobile Home Rental Park special exceptions, Mobile Home Condominium Park special exceptions, and Mobile Home conditional uses, whether new or amended, within unincorporated Palm Beach County, in accordance with Sec. 1.5. In cases of conflict between this section and other sections of the ULDC, the provisions of this section shall apply to the extent of the conflict.

3. **Previous approvals.** Modifications to previously approved mobile home park special exceptions or conditional uses shall comply with the requirements of Sec. 1.5, Sec. 6.8-A.2, and this section. Modifications to mobile home park special exceptions or conditional uses which were approved under ordinances other than Ordinance No. 73-2, as amended, that do not require further BCC or DRC approval to development, shall be permitted to develop according to the regulations in place at the time of the approval. This provision shall not authorize any new mobile home or attached accessory structure to violate the required building separation of the Palm Beach County Fire Code. All new development shall comply with the intent and requirements of the Comprehensive Plan, Sec. 1.5., Sec. 6.8-A. and this section.

4. **Application.** The applicant shall provide a Preliminary Development Plan, a regulating plan, and a justification report. These documents shall demonstrate compliance with Sec. 6.8, Planned Development District Regulations, this section and other information as required by PZB for processing a rezoning or rezoning amendment.

   a. **Preliminary Development Plan.** A MHPD shall be governed by a Preliminary Development Plan approved by the BCC which illustrates, in a graphic, written and tabular form, how the MHPD is designed and phased. The requirements of a Preliminary Development Plan are found below, in Sec. 6.8.A.8, Contents of application, and the rezoning application form.

(1) **Development threshold.** The minimum size in gross land area for a MHPD is nine (9) acres.

(2) **Contiguous land.** MHPDs shall be developed in contiguous lots or tracts. Land may be added to a MHPD provided the land is contiguous and the resulting MHPD meets the intent of Sec. 6.8, Planned Development District Regulations, and this section.

(3) **Density.** Table 6.8-1, Planned Development District Densities and Corresponding Land Use Categories, indicates the minimum density, the standard density, the planned development density, and the land use categories which correspond to a MHPD. Sec. 6-8.A.3, Residential density and land use categories, lists additional density requirements for MHPDs.

(4) **Pods.** The MHPD allows a limited amount of flexibility in establishing the proper amounts of pods. Land uses shall be grouped into pods which define the types of uses within a specific area of a MHPD, see Sec. 6.8-G.6, Use regulations. Percentages of pods may vary for each MHPD depending upon the findings of Sec. 6.8.B.4.c, Land use justification report, the land use requirements provided in Table 6.8-28, MHPD Mix of Land Uses and the requirements listed below.

(a) **Design intent.** The design of a MHPD shall comply with the requirements of Sec. 6.8-A.20, Design objectives, and the following:

i) A MHPD shall be predominantly residential;

ii) A MHPD shall provide a continuous non-vehicular circulation system for pedestrians and non-motorized vehicles;

iii) A MHPD shall provide perimeter landscape areas to preserve native vegetation, buffer incompatible land uses, and provide green space; and,

iv) A MHPD may offer limited commercial uses to serve the population of the MHPD.

(b) **Commercial pod.** MHPDs have the option of providing limited commercial service, retail and professional office uses, if these uses are supported by Sec. 6.8.B.4.c, Land use justification report.

(c) **Mix of land uses.** The land area of a MHPD shall be designated as residential, commercial, civic or recreation on the Preliminary Development Plan. The pod percentages in Table 6.8 - 28, below, and the land use justification report indicate the area of the MHPD which specific land uses may occupy.

Table 6.8 - 23
MHPD MIX OF LAND USES

General pods	Minimum	Maximum
1. Residential	60%	–
2. Civic	2% [see Sec. 6.8-H.6.(2)]	–
3. Commercial	0	[see Sec. 6.8-H.6.(3)]
4. Recreation	110 s.f. area/person [see Sec. 6.8-H.6.(1)]	–

NOTE to Table 6.8-23:

- General land use percentages (Residential, Civic, Commercial and Recreation) shall be calculated based on the gross area of the MHPD. Recreation uses which are internal to a residential pod rather than a separate

recreational pod may be credited toward the minimum land area requirement of sixty (60%) percent for residential pods.

(5) **Perimeter landscape areas.** Perimeter landscape areas shall be part of a network of connecting open space corridors which comply with Sec. 6.8-A.22.b, (Perimeter landscape and edge areas), and the requirements listed below:

(a) **Required locations.** A perimeter landscape area shall be provided around the entire perimeter of a MHPD. These landscape areas shall also be located between incompatible land uses and pods. The width, planting requirement, and type of perimeter landscape areas provided within a MHPD shall be as determined in Sec. 6.8-A.22.b, and below.

(b) **Type (C) perimeter landscape area.** A type (C) perimeter landscape buffer is required to buffer incompatible pods and land uses. The portion of a perimeter landscape buffer required to be a Type (C) depends upon the compatibility of the surrounding land uses and the design of the pods. Commercial and private civic land uses shall be buffered from surrounding residential development. A recommendation shall be made by PZB to the BCC as a development order condition as to the type and the location of perimeter landscape areas based on the surrounding land uses, Sec. 6.8-A.22.b.4), the proposed site design and Table 6.8-3, Perimeter Landscape Areas.

(6) **Pedestrian orientation and scale.** MHPDs shall be pedestrian oriented, physically recognizable and developed at a human scale:

(a) **Connections.** A MHPD's residences, shopping, civic and recreational uses shall be connected by a continuous non-vehicular circulation system;

(b) **Community identity.** The MHPD shall locate a recreational, civic, or commercial land use within a minimum of six hundred (600) feet of ninety five (95%) percent of the housing. These land uses are intended to provide places for social, cultural and recreational activities that can provide needed services, encourage non-vehicular circulation, and create community identity; and,

(7) **Circulation system.** MHPDs shall be designed with a circulation system based upon a hierarchy of transportation methods, including but not limited to, pedestrian, cyclists, mass transit and automobile. At points of intersection between these circulation systems, the hierarchy shall consider pedestrians as the most important, followed by cyclists, mass transit and automobiles. This system shall be designed to connect and provide access between land uses within the MHPD and to link with systems in the surrounding communities by providing:

(a) Pedestrian and bicycle pathway systems, including but not limited to, walking paths, or sidewalks and bike trials or bike lanes; and,

(b) Parking areas which are designed to encourage the pedestrian nature of the community by encouraging a sharing of parking spaces between land uses.

(8) **Final Site Plan/ Final Subdivision Plan.** MHPDs shall indicate on a Final Site Plan/Final Subdivision the proposed site design and lot or condominium unit configurations for approval by the DRC. This requirement applies to MHPDs regardless of the type of ownership (rental, condominium, etc). All lots or units regardless of type of ownership shall comply with Table 6.8-30, MHPD Property Development Regulations. The Final Site Plan/Final Subdivision Plan shall indicate:

(a) The site design and configuration of the mobile home lots or condominium units, non-residential and recreational areas;

(b) The typical lot or condominium unit dimensions proposed to support a mobile home. The plan shall indicate the buildable area on each lot or condominium unit and shall identify the potential for accessory structures, patios or carports in conjunction with a mobile home; and,

(c) Circulation system; and

(d) Other applicable regulations as required in Art. 8, Subdivision.

b. **Regulating plan.** The regulating plan shall provide a comprehensive graphic and written description of the function and development of the MHPD, including but not limited to flexible property development regulations, a transportation program, and street and pathway cross-sections. See Sec. 6.8-A.7.e., Regulating plan.

(1) **Flexible regulations.** The developer may request to deviate from certain property development regulations (specifically indicated as flexible regulations) within Table 6.8 - 30, MHPD Property Development Regulations as required in Sec. 6.8-A.7.e, Regulating plan; and,
(2) **Transportation program.** The applicant shall provide a transportation program which complies with Sec. 6.8-A.8.c, Regulating plan.

c. **Land use justification report.** A land use justification report shall be provided to justify and explain the amount of commercial and recreational land uses proposed and describe the methods used to calculate this percentage, including the raw data used (the assumptions made for proposed population counts), the analysis procedures and the resulting land use mix recommendations based on projected income levels, housing types, etc. The justification report shall also address the amount, if any, of affordable housing proposed and the following:

(1) **Land use in relationship to population.** The per capita ratio of commercial gross floor area and land area and recreational land area shall be based on the BCC approved population of a MHPD.
(2) **Recreation areas.** MHPDs shall designate areas for recreation by providing passive parks, or active recreation areas;
(a) **Recreation report.** The report shall detail the passive and active recreation available to the population of the MHPD and shall be submitted as part of the justification report. This report shall include, but is not limited to:
i) The types of passive recreation proposed and a total acreage amount;
ii) The types of active recreation proposed including a list and cost estimation of site improvements and a total acreage amount;
iii) The methodology used to calculate the minimum amount of recreation required based on population and the following:
a) An equivalent to the requirements of Sec. 7.12, Park and Recreation Standards for recreational land area and site improvements; and,
b) The requirements of this section.

In cases of conflict between recreation requirements of these sections, the more strict of the regulations shall apply to the extent of the conflict.
iv) The proposed connections (bike lanes, pedestrian paths, visual sight lines, etc.) used to connect land uses and pods.

5. **Administration.**

a. **Conditions of approval.** The BCC may impose conditions of approval upon the development order to assure the intent of this section is satisfied and that the public health, safety and welfare are provided. The conditions shall implement specific design amendments or site improvements to enforce Code regulations which are generally addressed.

b. **Development Review Committee (DRC).** The Preliminary Development Plan and regulating plan shall be reviewed and certified according to Art. 5, Development Review Procedures and Sec. 6.8-A.14, Action by DRC. Changes to previously approved MHPDs which exceed the limits of the DRC shall comply with the modification options contained in Sec. 6.8-A, Planned Development District Regulations, or Sec. 5.7, Variances.

(1) **Modifications to a Preliminary Development Plan.** Modifications to a previously approved Preliminary Development Plan shall be as permitted in Sec. 6.8-A.14, Action by DRC, and Art. 5, Development Review Procedures.

(2) **Modifications to a regulating plan.** Modifications to a previously approved regulating plan shall be as permitted in Sec. 6.8.-A.18, Amendment to Preliminary Development Plan.

c. **Phasing controls and platting.** Each MHPD shall be subject to the time limitation and review requirements of Sec. 5.8 (Compliance with time limitations) and Sec. 6.8.A.20 (Phasing controls and platting) and shall proceed in a reasonably continuous and timely manner. In cases of conflict between regulations, the requirements of this section shall apply to the extent of the conflict.

(1) **Recreation areas and parks.** See Sec. 7.12, Park and recreation standards, for phasing and platting requirements for recreation areas.

(2) **Commercial uses.** No building permit for commercial uses shall be submitted until certificates of occupancies of at least twenty (20) percent or more of the total approved dwelling units for the MHPD has been issued.

d. **Property owners association.** A property owners association shall be formed to manage the common areas and guide the growth of a MHPD concurrent with the recording of the first plat with the Clerk of the Circuit Court.

6. **Use regulations.** Table 6.8-2, (Planned Development District Use Regulations Schedule) indicates the land uses allowed within a MHPD unless otherwise restricted by the development order conditions. Land uses within a MHPD shall be subject to the following provisions:

a. **Pods.** A MHPD district shall be divided into pods which indicate the proposed land uses.

(1) **Recreation.** All MHPDs shall graphically designate on the Preliminary Development Plan the size (in square feet) and the location of recreation areas. Recreation land uses shall include parks and recreation areas. A continuous non-vehicular circulation system shall connect internally between land uses and pods and externally with surrounding land uses.

(a) **Recreation.** On site recreation shall be provided at a minimum of one hundred ten (110) square feet of lot area per person based on the total number of mobile home lots or condominium units approved by the BCC (total dwelling units x 2.4 = population). The phasing, location, and site improvements of recreation areas shall comply with the requirements of this section and Sec. 7.12, Park and recreation standards.

(b) **Neighborhood parks.** A MHPD may provide neighborhood parks which are mostly passive in nature in addition to the minimum recreational land area requirements of Sec. 7.12, by complying with the following requirements:

i) **Minimum area.** A Neighborhood park shall have a minimum area of eight thousand four hundred (8,400) square feet and a minimum lot width and depth of sixty (60) feet;

ii) **Parking.** Parking is not required for recreation areas or parks. However, if parking is provided, not more than ten (10%) percent of the gross area of a recreational lot shall be paved for parking; and,

iii) **Non-vehicular circulation.** A continuous sidewalk or other pedestrian path approved by PZB shall connect all recreational site improvements (pool, hard surface courts, recreation buildings, etc) to the continuous non-vehicular circulation system of the MHPD. Also, a continuous network of pedestrian and bicycle paths, and driveways shall provide convenient access from the mobile homes to the recreational, civic and commercial land uses. This path network may include, but is not limited to, sidewalks or bike paths along streets, paths within perimeter landscape areas, and driveways connecting dwelling units with parking areas or sidewalks.

(2) **Civic use.** MHPDs with a gross land area equal to or larger than fifty (50) acres shall dedicate or designate a minimum of two (2%) percent of the gross area of the MHPD as public or private civic. The Civic pod is intended to promote a coordinated land planning approach for providing and encouraging publicly and privately owned land uses to serve the community. It should be understood that the civic land use requirements contained herein, shall in no way alter, diminish, or increase those obligatory conditions which were made prior to the adoption of this Code.

A minimum of two (2%) percent of the gross area of the MHPD shall be designated on the Preliminary Development Plan as either Public Civic or Private Civic as indicated below:

(a) **Publicly owned civic land uses.** A portion of a MHPD may be required to be conveyed in simple title for civic purposes to the BCC or other service providers in response to an increase in services or other impacts required for the MHPD or by a voluntary commitment by the applicant.

i) **Conveyance.** These conveyances shall be in the form as provided by BCC conditions, and as indicated in the development agreement for a project in accordance with Ord. 91-16, "Palm Beach County Development Agreement Ordinance" as may be amended, and shall meet the Facilities Planning, Design and Construction Department's requirements for civic land acquisition. Conveyance of land for civic sites shall not included land utilized for dry or wet retention for land uses located outside of the civic site.

ii) **Land uses.** Publicly owned civic lots shall consist of land uses which are required to provide services to meet Concurrency requirements such as, but not limited to, regional parks, water treatment facilities and fire stations, and services required to mitigate other impacts of the development to service providers such as, but not limited to, public schools or libraries.

iii) **Service providers.** The civic dedications for service providers shall be mutually agreed upon by the petitioner and the Facilities Planning Design and Construction Department.

iv) **Location.** Civic lot locations shall be mutually agreed upon by the petitioner and the Facilities Planning Design and Construction Department.

v) **Perimeter landscape areas.** Civic uses shall comply with the perimeter landscape requirements for commercial land uses.

vi) **Property development regulations.** Civic uses shall comply with the regulations in this section and Table 6.8-30, MHPD Property Development Regulations. Publicly owned civic lots may be exempted from certain property development regulations, if the regulation is determined by the Zoning Director to be detrimental to the proper functioning of the civic use.

(b) **Privately owned civic land uses.** Private civic lots shall consist of land uses which: provide services to the MHPD residents; are customarily privately owned and operated; and are customarily allowed in residential zoning districts, such as but not limited to, day care centers, churches,

temples and property owner meeting halls, see Table 6.8-2, Planned Development District Use Regulations Schedule.

i) **Land designation option.** A MHPD shall provide or may have the option of providing private civic uses depending upon the amount of area dedicated for public civic uses or a public civic equivalent as determined by the Facilities, Planning, Design and Construction Department.

A MHPD shall provide private civic uses if all of the following circumstances exist:

a) Less than two (2%) percent of the gross area of the MHPD is dedicated as public civic uses or equivalent after complying with the public civic requirements listed above; and,

b) The MHPD is approved by the BCC to support a population (2.4 x total dwelling units) of four hundred (400) people or greater.

ii) **Minimum land designation.** The difference in land area between the overall minimum civic land area requirement of two (2%) percent for the MHPD and the land area amount of public civic or equivalent dedicated above, shall be indicated as private civic land area on the on the Preliminary Development Plan.

a) If a commercial pod is proposed for a MHPD, private civic lots shall be located adjacent to the commercial pod.

(3) **Commercial pod.** MHPDs may establish a limited amount of neighborhood oriented commercial development. This commercial pod shall be designed to provide for the convenience of the residents and shall be based on the population of the MHPD.

(a) **Location.** Commercial pods shall be located and designed for the convenience of the MHPD's residents to encourage internal vehicular trips and be internal to the MHPD. Vehicular access to commercial facilities shall not be permitted from an arterial or collector that is not part of the interior circulation system of the MHPD. No commercial facility shall maintain frontage or direct physical access to any arterial or collector bordering the MHPD. Commercial pods shall comply with a minimum setback of three hundred (300) from the perimeter of the MHPD.

(b) **Architectural design.** The architectural design criteria of Sec. 6.6.C (Architectural Compatibility Standards) shall apply to all nonresidential development within commercial pods.

(c) **Land area.** The maximum commercial land area for a MHPD is calculated based on the population of the mobile home lots or condominium units approved on the Preliminary Development Plan by the BCC as described in the chart below; and,

i) **Building area.** The maximum commercial building area is calculated by multiplying the projected population of the MHPD, (dwelling units x 2.4), by the constant (8.75) which equals the total amount of commercial gross square footage permitted for the MHPD.

TABLE 6.8 - 24
MHPD COMMERCIAL ACREAGE

Population	Maximum Commercial Acreage	Gross Floor Area* Commercial Square Footage*
Less than 1,000	None	None
1,001 to 1,740	One (1) acre	8,759 to 15,225
1,741 to 2,990	Two (2) acres	15,234 to 26,163
2,991 to 4,970	Three (3) acres	26,171 to 43,488
4,971 to 6,970	Five (5) acres	43,496 to 60,988
6,971 to 9,950	Seven (7) acres	60,996 to 87,063
9,951 to 15,000	Ten (10) acres	87,071 to 131,250
15,001 to 26,000	Fifteen (15) acres	131,259 to 228,690

* Buildable commercial square footage may vary depending upon lot configuration, site design, and compliance with other property development regulations, including but not limited to, vegetation preservation, landscaping and parking.

- Buildable commercial gross floor area may vary depending upon lot configuration, site design, and compliance with other property development regulations, including but not limited to, vegetation preservation, building setbacks, landscaping, and parking.

- The calculation of the maximum commercial lot area and gross commercial floor area for PUDs with a residential population exceeding twenty six thousand (26,000) people shall be determined by PZB on a case by case basis.

(d) **Supplementary use standards.** The standards of Sec. 6.4.D (Supplementary Use Regulations) and the standards listed below shall apply within the commercial pod unless specifically waived or modified by the terms of the development order for the MHPD.

i) **Hours of operation.** Commercial uses shall not commence business activities (including delivery and stocking operations) prior to 6:00 a.m. nor continue activities later than 11:00 p.m.

ii) **Enclosed uses.** All uses, other than incidental storage of merchandise, shall be operated entirely within enclosed buildings, with the exceptions listed in Sec. 6.5.I (Additional Property Development Regulations) for the CN, CLO and CC districts and convenience store with gas sales.

iii) **Open storage.** Outdoor storage of merchandise shall be permitted only when incidental to the commercial use located on the premises, subject to the following standards.

a) The storage area shall not be located in any of the required setbacks or yards.
b) The storage area shall be completely screened from adjacent road rights of way and mobile homes, and views outside the MHPD.
c) The stored merchandise shall not protrude above the height of the screening walls, fences or buildings. No open storage or placement of any material, refuse equipment or debris shall be permitted unless in area designated on a Subdivision Plan which has been approved by PZB.

iv) **Outdoor speakers.** No outdoor loudspeaker systems shall be permitted within three hundred (300) feet of residential housing.

v) **Architectural treatment.** Similar architectural character and treatment shall be provided on all sides of buildings; and,

vi) **Rooftop screening.** All roof-top mechanical and electrical equipment shall be screened so as not to be visible from adjacent land uses. The screen shall be opaque and extend from the roof of the building to a minimum of six (6) inches above the height of the object intended for screening.

7. **Property development regulations.** The property development regulations within a MHPD district shall be as indicated in Table 6.8 - 30, MHPD Property Development Regulations, unless otherwise specifically provided in the approved Preliminary Development Plan, in the development order or as listed below:

TABLE 6.8 - 25
MHPD PROPERTY DEVELOPMENT REGULATIONS

Pod	Minimum Lot, Lease Lot or Condo. Unit Dimensions				Maximum Building Coverage	Minimum Building Setbacks or Separations			
	Size	Width	Depth	Corner		Front	Street	Side*	Rear*
Mobile Home	4,200	40'	70'	55'	50%	20'	20'	5'	10'
Recreational	--	--	--	--	10%	25'	25'	20' C 40' R	20' C 40' R
Civic	1 ac.	100'	200'	35'	.30	25'	25'	20' C 40' R	20' C 40' R
Commercial	1 ac.	100'	200'	25'	.20	25'	25'	20' C 40' R	20' C 40' R

Notes to Table 6.8-24:

C - Indicates the required building setback for land uses abutting a non-residential zoning district, a civic, commercial, or recreation pod.

R - Indicates the required building setback for land uses abutting a residential zoning district or a residential pod.

* Indicates that the regulation is flexible and may be modified by complying with Sec. 6.8-A.7.e, Regulating plan.

Notes to Table 6.8-24 (cont'd):

- Land uses which abut a lake, canal, or preserve area which is greater than or equal to forty (40) feet in width along the boundary of the land use, may substitute a twenty (20) feet side interior or rear setback if a forty (40) feet setback is required.

- The building setbacks indicated above are based on a minimum building height of thirty five (35) feet. All structures exceeding thirty five (35) in height shall provide an additional setback of one (1) horizontal foot for each one (1) vertical foot of the portion of the building exceeding the thirty five (35) feet maximum height. This setback is in addition to the minimum setback requirement above.

- Setbacks shall be measured from the inside edge of perimeter landscape areas and internal road right-of-ways for recreation, civic and commercial uses. Setbacks shall be measured from individual lot lines, rental lines and from condominium lines.

---

a. Required improvements. MHPDs shall comply with the required site improvements for single family homes listed in Art. 8, Subdivision, including but not limited to:

(1) The County Engineer shall approve the site improvement implementation schedule and all construction plans prior to construction;
(2) The site improvement plans shall coincide with the approved Preliminary Development Plan;
(3) The following improvements shall be provided as required in Art. 8, Subdivision for single family homes:

(a) Bridges;
(b) Grading;
(c) Drainage;
(d) Fire hydrants;
(e) Monuments;
(f) Central water system;
(g) Sanitary sewers;
(h) Streets; and,
(i) Street markers.

b. Road improvements. The BCC may condition a MHPD to provide certain road improvements within the road right-of-way, in addition to the land development improvements required above and for the subdivision or platting of land. These improvements are intended to forward goals of the Comprehensive Plan such as, but not limited to: assuring the public health, safety, and welfare; facilitating and encouraging non-vehicular circulation; implementing the Linked Open Space, Scenic Corridor and other applicable County programs; and improving the aesthetics of the community. These improvements may include, but shall not be limited to: street lighting; street trees and median landscaping; underground utilities; and bike lanes (see Sec. 6.8-A.22.d).

c. **Accessory uses and structures.** Accessory uses in permanent and temporary structures shall be allowed or required under the following conditions for the following uses.

(1) **Permanent structures.**

(a) **Emergency Structure.** Each MHPD development shall include a permanent structure adequate to serve as an emergency shelter designed to accommodate the anticipated population of the MHPD based upon a standard of forty (40) square feet for each person. Such structure shall contain sanitary facilities in an amount needed to accommodate the population as determined by the Palm Beach County Building Official.

(b) **Office.** A permanent office building may be allowed in an area designated for commercial use on the Preliminary Development Plan and subject to the property development regulations of Table 6.8-30, MHPD Property Development Regulations, for commercial uses.

(c) **Gatehouses.** Permanent gatehouses may be allowed for internal project security purposes, if properly shown on the Final Site Plan/Final Subdivision Plan and not in conflict with right-of-way and setback requirements of this Code and the Palm Beach County Thoroughfare Plan.

(d) **Utility services.** Utility buildings and structures may be allowed if indicated on the Final Site Plan/Final Subdivision Plan.

(2) **Temporary structures.** Temporary structures and facilities may be allowed under the following conditions for the following uses subject to Sec. 6.4 and the requirements listed below:

(a) **Temporary Construction trailer.** Use of a temporary construction trailer shall be limited to storage and on site office work. The facility is not to be inhabited overnight;

(b) **Security quarters mobile home.** A mobile home shall be permitted as security quarters for overnight habitation;

(c) **Rental models.** Rental models may be allowed if placed on the site pursuant to the preliminary development plan and all applicable codes and ordinances. The number of rental models shall not exceed eight (8) in number, and shall not be connected to water and sewer facilities. One (1) of the rental models may be used for a temporary office if sanitary facilities are approved by the appropriate governmental agencies; and,

(d) **Mobile home rental office.** A mobile home may be used as a rental office.

(3) **Accessory mobile home structures.** The total combined area of all additions to mobile homes, except carports, that are authorized as permitted accessory structures, shall not exceed the gross area of the mobile home itself and shall comply with the maximum building coverage requirements.

[Ord. No. 93-4]

[Ord. No. 93-4; February 2, 1993]

H. RVPD, Recreational Vehicle Park Planned Development District.

1. **Purpose and intent.** The purpose of the RVPD district is twofold: 1. Promote the design of unified, recreational use developments for land which has a commercial, industrial or commercial recreation designation on the Land Use Atlas, see Table 6.8-1, Planned Development District Densities and Corresponding Land Use Categories.

The intent of the RVPD is to provide for the development of recreational vehicle parks which offer limited habitation on site (no permanent residence) and which provide enlightened and imaginative approaches to community planning, including but not limited to:

a. Providing a tourist oriented, park-like environment; and,

b. Locating near an established recreational resource to allow convenient access for tourists.

2. **Applicability.** The requirements of this section, Sec. 6.8-A.2., and Sec. 1.5 shall apply to all RVPDs, whether new or amended, within unincorporated Palm Beach County. In cases of conflict between this section and other sections of the ULDC, the provisions of this section shall apply to the extent of the conflict.

3. **Previous approvals.** Modifications to recreational vehicle park special exceptions shall comply with Sec. 1.5, Exemptions: Effect of code and amendments on previously approved development orders, the requirements of Sec. 6.8, Planned Development District Regulations, and this section.

4. **Application.** The applicant shall provide a Preliminary Development Plan, a regulating plan, and a justification report. These documents shall demonstrate compliance with Sec. 6.8-A, Planned Development District Regulations, this section, the requirements listed in the rezoning application form and other requirements, as may be required by PZB to process a rezoning or zoning amendment application.

   a. **Preliminary Development Plan.** A RVPD shall be governed by a Preliminary Development Plan approved by the BCC which illustrates, in a graphic, written and tabular form, how the RVPD is designed and phased. The requirements of a Preliminary Development Plan are found below and in the rezoning application form available from PZB.

      (1) **Minimum development threshold.** RVPDs shall have a minimum size of twenty (20) acres.
      (2) **Contiguous land.** RVPDs shall be developed in contiguous lots or tracts.
      (3) **Maximum number of vehicles.** A RVPD shall not exceed a gross density of twelve (12) recreational vehicles per gross acre.
      (4) **Design intent.** The design of the RVPD shall comply with the requirements of Sec. 6.8.A.23 (Design Objectives).
      (5) **Recreation.** Recreational uses shall be provided within the RVPD based on population of the recreational vehicle lots proposed on the Preliminary Development Plan.
      (6) **Perimeter landscape areas.** Perimeter landscape areas shall be part of a network of connecting open space corridors which comply with Sec.6.8.A.23.b, Perimeter landscape and edge areas, and the requirements listed below:
         (a) **Required locations.** A minimum twenty-five (25) feet wide landscape area shall be provided around the perimeter of a RVPD and connect the recreational vehicle spaces with the Park Headquarters, restrooms and other land uses which service the residents.
         (b) **Type (C) perimeter landscape area.** A type (C) perimeter landscape buffer is required to buffer incompatible uses outside of the RVPD. The portion of a perimeter landscape buffer required to be a type (C) depends upon the compatibility of the surrounding land uses and their design. Adjacent residential land uses shall be buffered from a RVPD by a type (C) perimeter landscape area. RVPDs adjacent to nonresidential land uses which are not incompatible by virtue of the site location or design may require less buffering. A

recommendation shall be made by PZB to the BCC as a development order condition as to the type and location of the buffering required.

(7) **Pedestrian orientation and circulation.** RVPDs shall be pedestrian oriented, physically designed at a human scale, and provide a circulation system based upon a hierarchy of transportation methods. In descending order of importance, the hierarchy shall consider pedestrians as the most important, followed by cyclists, mass transit and automobiles. This system shall be designed to connect and provide access between land use within the RVPD and adjacent land uses within the surrounding communities by the use of a continuous non-vehicular circulation system.

b. **Regulating plan.** The regulating plan shall provide a comprehensive graphic and written description of the function and development of the RVPD, including but not limited to flexible property development regulations, a transportation program, and street and pathway cross-sections according to the requirements of Sec. 6.8-A.8.e., Regulating plan.

c. **Land use justification report.** A land use justification report shall be provided to justify and explain the amount of recreational uses proposed for the RVPD.

(1) **Recreation areas.** RVPDs shall designate areas for recreation by providing parks, useable open green space or recreation areas. These areas shall be connected by pedestrian paths or sidewalks, or bicycle paths or lanes to encourage pedestrian access and other non-vehicular circulation;

(2) **Recreation report.** The report shall detail the passive and active recreation proposed based on the projected population of the RVPD and shall be submitted as a recreation report. This report shall include, but is not limited to:

(a) The types of passive recreation proposed and a total acreage amount;

(b) The types of active recreation proposed including a list and cost estimation of site improvements and a total acreage amount; and,

(c) The methodology used to calculate the minimum amount of recreation required based on the population of the RVPD (total number of recreational vehicular lots x 2.4) and the following:

i) The requirements of Sec. 7.12, Park and recreation standards; and

ii) The requirements of this section.

In cases of conflict between the recreation requirements of these sections, the more strict regulation shall apply to the extent of the conflict.

(d) The proposed connections (bike lanes, pedestrian paths, etc.) used to connect the recreational vehicle spaces with the park headquarters and outside land uses.

5. **Administration.**

a. **Conditions of approval.** The BCC may impose conditions of approval upon the development order to assure the intent of this ordinance is satisfied and that the public health, safety and welfare are provided, subject to Sec. 6.8-A, Conditions.

b. **Development Review Committee (DRC).** Following approval by the BCC, the Preliminary Development Plan, regulating plan, and land use justification report shall be submitted for review and certification by the DRC according to Art. 5, Development Review Procedures and Sec. 6.8-A.14, Action by the DRC. Changes to previously approved RVPDs which exceed the limits of the DRC shall

comply with the modification options contained in Sec. 6.8-A, Planned Development District Regulations, or Sec. 5.7, Variances.

c. **Phasing controls and platting.** Each RVPD shall be subject to the time limitation and review requirements of Section 5.8 (Compliance with time limitations) and Section 6.8.A.20 (Phasing controls and platting) and shall proceed in a reasonably continuous and timely manner.

6. **Use regulations.** Table 6.8-2 (Planned Development District Use Regulations Schedule) indicates the land uses allowed within a RVPD unless otherwise restricted by conditions included in the development order. Uses other than recreational vehicles and accessory recreational facilities shall be located in a park headquarters subject to the provisions of this section.

a. **Pods.** The entire RVPD shall be designated as a Recreational vehicle pod.

(1) **Recreational use.** All RVPDs shall designate on a Preliminary Development Plan the minimum area and location of one hundred and ten (110) square feet of gross lot area per person (based on 2.4 people per recreational vehicle lot) for recreational purposes. Also, a continuous non-vehicular circulation system shall be provided to connect internally with recreation areas, park headquarters, and recreational vehicle lots and externally with surrounding land uses which may serve the tourists.

(a) **Recreational uses.** Recreational site improvements and activities shall be provided based on an equivalent of the calculations rates used to determine recreation site improvements in Sec. 7.12, Park and recreation standards.

(b) **Neighborhood parks.** In addition to the requirements for recreation listed above, a RVPD may provide neighborhood parks which are mostly passive in nature. If a neighborhood park is proposed, the following design standards shall apply:

i) **Minimum area.** A Neighborhood park shall have a minimum area of eight thousand four hundred (8,400) square feet and a minimum lot width and depth of sixty (60) feet;

(c) **Parking.** Parking is not required for recreation areas or parks. However, if parking is provided, not more than ten (10%) percent of the gross area of a recreation lot shall be paved for parking.

(d) **Minimum improvements.** All recreation areas and neighborhood parks shall provide a continuous sidewalk or other pedestrian path approved by PZB which connects site improvements (pool, hard surface courts, benches, etc.) to the surrounding RVPD's continuous non-vehicular circulation system;

(2) **Recreational vehicle pod.** The recreational vehicle pod on the Preliminary Development Plan shall indicate the vehicle rental spaces with a note explaining that these spaces are for temporary habitation and are not for permanent residency, and the park headquarters.

(a) **Time limitations.** No person shall reside or be permitted to reside in any RVPD for more than ninety (90) consecutive days, and not more than one hundred eighty (180) total days in any one-year period, commencing from the initial date of occupancy.

(b) **Record keeping.** RVPD owners and operators shall keep the following records:

i) The make, model, and year of each recreational vehicle used for residing in the RVPD;

ii) The dates of occupancy of each recreational vehicle used for residing in the RVPD;

iii) The names and permanent addresses of the recreational vehicle occupants.

(c) **Permanent structures or additions.** Permanent structures or additions accessory to the recreational vehicle including but not limited to screen rooms, carports, or utility sheds shall be prohibited.

(d) **Mobility.** The mobility of the recreational vehicle shall be maintained at all times.

7. **Property development regulations.** The property development regulations within a RVPD shall be as indicated in Table 6.8-31, RVPD Minimum Dimensions and Building Intensity, and Table 6.8-32, RVPD Minimum Setbacks, unless otherwise specifically provided in the approved Preliminary Development Plan or in the development order.

TABLE 6.8 - 26
RVPD MINIMUM DIMENSIONS AND BUILDING INTENSITY

Land Use	Minimum Dimensions			Maximum Height	Maximum Building Coverage
	Size	Width	Depth		
RV Parking Space	1,500 s.f.	20'	40'	--	--
Park Headquarters	1 ac. - min. 2 ac. - max.	100'	200'	25'	.25

TABLE 6.8 - 27
RVPD MINIMUM SETBACKS

Land Use Type	Minimum Building Setbacks (ft.) and Separations			
	Front	Side*	Street	Rear*
Park Headquarters and accessory buildings	25'	C - 15' R - 40'	25'	C - 20' R - 40'

NOTES to Table 6.8-27:

C - Abutting non-residentially zoned lot.

R - Abutting residentially zoned lot.

* Indicates that the regulation is flexible and may be modified by complying with Sec. 6.8-A.8.e., Regulating Plan.

- Setbacks shall be measured from the inside edge of perimeter landscape areas.

- Recreation buildings shall comply with the building setbacks required for the Park Headquarters.

a. **Road improvements.** The Board of County Commissioners may condition a RVPD to provide certain road improvements within the road right of way, in addition to the land development improvements required for the subdivision or platting of land. These conditional improvements are intended to forward certain goals of the Comprehensive Plan such as: assuring the public health, safety and welfare; facilitating non-vehicular circulation; implementing the linked Open Space, Scenic Corridor and other applicable County programs; and improving the neighborhood aesthetics. These conditional road improvements may include, but are not limited to street lighting, median landscaping, street trees, underground utilities, and bike lanes. See Sec. 6.8-A.22.d, Road improvements.

b. **Parking requirements and access.** RVPDs shall comply with Sec. 7.2, (Off-street parking regulations) and the following:

(1) A minimum of one (1) parking space for each recreational vehicle;
(2) Parking for uses other than recreational vehicles shall be determined by Sec. 7.2, (Off-street parking regulations); and,
(3) Parking of vehicles in areas not designed or designated for parking is prohibited.

c. **Landscape requirements.** Unless otherwise indicated, a RVPD shall be landscaped according to Sec. 7.3, Landscaping and buffering, the requirements of this section and the regulating plan.

(1) **Minimum trees.** A minimum of one (1) tree for each fifteen hundred (1,500) square feet of gross lot area shall be provided within all RVPDs. Trees required for perimeter landscape areas shall not count toward this minimum tree requirement. Trees shall be spaced throughout the RVPD and shall be clustered around recreation areas and between recreational vehicle spaces.

d. **Design criteria**. All RVPDs shall comply with the following objectives and requirements, in addition to those specified in Sec. 6.8.A.23 (Design Objectives).

(1) **Park headquarters.** The park headquarters shall be located within the interior of the RVPD and shall be designed for the convenience of the project residents. No headquarters facility shall maintain frontage or direct physical access on any arterial or collector bordering or traversing a RVPD.
(a) **Operating hours**. No commercial service shall commence business activities (including delivery and stocking operations) prior to 6:00 AM nor continue activities later than 11:00 PM except as otherwise provided in this Code.
(b) **Outdoor storage**. Outdoor storage of merchandise shall be permitted only when incidental to the campground use located on the same premises provided that:
i) The storage area shall not be located in any of the required setbacks or yards
ii) The stored merchandise shall not protrude above the height of the enclosing walls or buildings.
(2) **Accessory uses and structures**. Accessory uses in permanent and temporary structures shall be permitted according to the following standards.
(a) **Permanent structures**. Permanent structures and facilities shall be allowed under the following conditions for the following uses.
i) **Gatehouses**. Permanent gatehouses may be allowed for internal project security purposes, if properly shown on the Final Subdivision Plan/plat and not in conflict with right-of-way and setback requirements of this Code and the Palm Beach County Thoroughfare Plan.

ii) **Utility services.** Utility buildings and structures may be allowed if properly shown on the Final Subdivision Plan/plat and in compliance with all applicable rules and regulations governing such facilities.

iii) **Camping Cabin.** A camping cabin may be permitted in existing or future recreational vehicle spaces provided it complies with all regulations contained in Sec.6.4.D. and Sec.6.8.H. of the Code.

(b) **Temporary structures.** Temporary structures and facilities shall comply with Sec. 6.4, and may be allowed under the following conditions for the following uses:

i) **Construction trailer.** Use of a construction trailer shall be limited to storage and on-site office work. The facility is not to be inhabited overnight or connect to water or sewer facilities.

ii) **Security quarters mobile home.** A mobile home may be used as security quarters for overnight habitation subject to a special permit.

[Ord. No. 93-4] [Ord. No. 95-8]
[Ord. No. 93-4; February 2, 1993] [Ord. No. 95-8; March 21, 1995]

I. SWPD, Solid Waste Disposal Planned Development District.

1. **Purpose and intent.** The purpose of the SWPD district is twofold: 1. Regulate the placement of developments designed to store, process, transfer or dispose of solid waste in any land use category, see Table 6.8-1, Planned Development District Densities and Corresponding Land Use Categories; and, 2. Permit only those land uses which are consistent with the County-wide Solid Waste Management Plan..

   The intent of the SWPD is to ensure the development of solid waste facilities which mitigate negative impacts and incorporate enlightened and imaginative approaches to community planning, including but not limited to:

   a. The protection of the public health, safety and welfare regarding air, noise and water pollution;

   b. The prevention of the use of the land as an uncontrolled receptacle for improperly treated wastes;

   c. The conservation of the value of land, buildings and resources;

   d. The protection of the character and maintenance of the stability of residential, agricultural, business and industrial areas;

   e. The provision of the appropriate and best use of land;

   f. The provision for preservation, protection, development and conservation of the natural resources of land, water and air;

   g. The provision for convenience of traffic and circulation of people and goods;

   h. The enhancement of the environment; and,

   i. The recovery of resources that have the potential of further use.

2. **Exemptions.** The disposal of non-putrescible solid waste material for grade improvement done in conjunction with a building permit, and the storage of non-putrescible materials for future use, shall be exempted from the requirements of this section.

3. **Applicability.** The requirements of this section, Sec. 1.5, and Sec. 6.8-A.2, shall apply to all SWPD districts and sanitary landfill, resource recovery facility, or incinerator special exceptions, whether new or amended, within unincorporated Palm Beach County. Prior to the development of a sanitary landfill, resource recovery facility or incinerator, a development order shall be approved pursuant to the procedures and standards of this section.

4. **Effect on previous approvals.** Modifications to previously approved sanitary landfills, resource recovery facilities, volume reduction plants and incinerators approved under Ordinance 77-8 shall comply with the requirements of Sec. 1.5, Exemptions: Effect of code and amendments on previously approved development orders, Sec. 6.8-A.2, Applicability, and this section. Sanitary landfills, resource recovery facilities, volume reduction plants and incinerators approved under Ordinance 77-8 and not in compliance with this section shall not be considered nonconforming uses under the provisions of this Code.

5. **Application requirements.** The applicant shall provide a Preliminary Development Plan, and a justification report. These documents shall demonstrate compliance with Sec. 6.8-A, Planned Development District Regulations, this section, the requirements listed in the rezoning application form and other requirements, as may be required by PZB to process a rezoning or zoning amendment application.

   a. **Preliminary Development Plan.** A SWPD shall be governed by a Preliminary Development Plan approved by the BCC which illustrates, in a graphic, written and tabular form, how the SWPD is designed and phased. The requirements of a Preliminary Development Plan are found below and in the rezoning application form available from PZB.

      (1) **Contiguous land.** SWPDs shall be developed in contiguous lots or tracts.

   b. **Additional requirements.** In addition to a Preliminary Development Plan, SWPDs proposing sanitary landfills or incinerators shall provide the following:

      (1) **Compatibility analysis.** A compatibility analysis less than one (1) year old that describes the impact of the proposed facility on the surrounding area, as follows:

         (a) The surrounding area is defined by the following distances, expressed in miles of radius.

TABLE 6.8 - 28
SWPD COMPATIBILITY ANALYSIS

Type of Facility	Impact on Public Services	Impact on Development Patterns	Impact on Natural Environment
Landfill, Class I, II	.50 mile	.50 mile	.25 mile
Landfill, Class III	.125 mile	.125 mile	.125 mile
Incinerator	1.5 miles	1.5 miles	.25 miles

(b) The review of public services shall address the impact of the proposed facility on fire and emergency services; water, electric and sewer service; the entire transportation system used to access the site; and proposed and existing schools, civic and park uses.

(c) The review of impacts on development patterns shall identify proposed or existing commercial uses and all lands platted, zoned or used for residential development.

(d) The environmental analysis shall review the impact of the proposed sanitary landfill on endangered or threatened species, air quality, noting direction of the prevailing wind, animal and vegetative habitats, and surface and groundwater quality, and noting any land within the 100-year flood zone.

(2) **Access.** A graphic illustration and narrative analysis of year-round access routes to the site.

(3) **Surface water.** A graphic illustration showing location of any class I surface water (as defined by the Florida Department of Environmental Resources) within three thousand (3,000) feet of the site.

(4) **Sanitary landfill type.** An explanation of the type of sanitary landfill proposed. The explanation shall describe the method of operation of the landfill, including sequence of filling, areas to be landfilled, special waste areas, limitations on types of waste that may be disposed of, gas control devices, and leachate collection and disposal method.

(5) **Construction schedule.** The proposed date that land alteration will commence, the projected date of completion and plans for completed use.

(6) **Volume.** An explanation of the quantity of waste to be received, expressed in cubic yards per day or tons per day.

(7) **Operating hours.** A statement specifying hours of operation.

(8) **Minimum distance requirements.** For the purpose of this section and except as provided in subsections g. and h. below ("Fencing and screening, buffer and setbacks"), minimum distance requirements shall be measured by drawing a straight line between the closest property line of the proposed landfill, incinerator or resource recovery facility to the nearest point on an adjacent property line. The area defined as the buffer shall not be included in the distance requirement.

c. **Location standards.**

(1) **Sanitary landfill.** No sanitary landfill shall be located closer than two hundred (200) feet of any body of water (except canals used to lower on-site water tables, borrow pits and other bodies of water contained completely within the sanitary landfill site) or on the watershed of any surface public water supply where leachate or runoff may result in violation of city, county, state or federal laws and regulations concerning the pollution of ground or surface waters.

(2) **Siting distances.** Sanitary landfills and incinerators shall be sited to be separated from land zoned or used or platted and used for residential dwellings, and designated conservation areas, as follows:

TABLE 6.8 - 29
SWPD SITING REQUIREMENTS

Type of Facility	Residential Development	State or Federal Designated Conservation Area
Landfill, Class I, II	.50 mile	.25 mile
Landfill, Class III	.125 mile	.125 mile
Incinerator	1.5 miles	.25 miles

(3) **Surface water.** No sanitary landfill shall be located within three thousand (3,000) feet of class I surface water, as defined by the Florida Department of Environmental Regulation.

(4) **Fire station service.** A class I sanitary landfill and incinerator shall be located within five (5) miles of a full-service fire station. The assurance of adequate on-site fire/rescue capability may exempt certain landfills or incinerators from this requirement.

(5) **Land use compatibility.** A sanitary landfill or incinerator shall only be sited where compatible with adjacent land use as determined by the Board of County Commissioners through review of the compatibility analysis.

(6) **Minimum lot size.** The minimum lot size for any solid waste disposal site containing a class I sanitary landfill shall be three hundred twenty (320) acres.

d. **Spatial buffer and setbacks.** A buffer shall be required around the perimeter of a class I sanitary landfill or incinerator, as follows:

(1) **Disposal.** The disposal of solid waste or ash may not take place closer than three hundred (300) feet from any property line; and,

(2) **Incinerator.** No part of any incinerator or its attached buildings or structures shall be located within eight hundred (800) feet of any property line.

e. **Perimeter landscape areas.** Perimeter landscape areas shall form a perimeter buffer of vegetation which complies with Sec. 6.8-22.b, (Perimeter landscape and edge areas), and the requirements listed below:

(1) **Preserve or mitigate natural areas.** Perimeter landscape areas shall be designed in conjunction with Sec. 7.5, Vegetation Protection and Preservation. The preservation or mitigation of wetlands and other native, non-invasive plant species and buffering incompatible land uses are the primary purpose of perimeter landscape areas.

(2) **Required locations.** All SWPDs shall provide a perimeter landscape area around the entire perimeter of the district. A minimum, fifty (50) feet wide perimeter landscape area shall be provided around the perimeter of a sanitary landfill, resource recovery facility, or incinerator. SWPDs without these uses may use the type (C) perimeter landscape area for the rear and

interior lot lines and the type (D) perimeter landscape area for lot lines along road right-of-ways. A recommendation shall be made to the BCC as a development order condition as to the perimeter landscape type and the planting requirements within the perimeter landscape area.

(3) **Buffer adjacent land uses.** Adjacent land uses to SWPDs with landfills or incinerators shall be buffered by spatial separations, dense landscaping, lakes, berms or a combination of these buffering elements. SWPDs without landfills or incinerators shall buffer adjacent land uses according to their compatibility by virtue of the SWPD's site location and design. A determination shall be made by PZB as to the extent of the buffering required.

6. **Property development regulations.** The property development regulations within a SWPD shall be as indicated in Table 6.8-35, SWPD Minimum Dimensions and Building Intensity, and Table 6.8-36, SWPD Minimum Building Setbacks, the regulations below, and the regulations provided in the approved Preliminary Development Plan and the development order.

TABLE 6.8 - 30
SWPD MINIMUM DIMENSIONS AND BUILDING INTENSITY

Land Use	Minimum Dimensions			Maximum Height	Maximum Building Coverage
	Size	Width and Frontage	Depth		
Sanitary landfill	320 ac. - Min.	1000'	1000'	–	–
Other SWPD Land Uses	1 ac. - Min.	100'	200'	35'	.35

TABLE 6.8 - 31
SWPD MINIMUM BUILDING SETBACKS

Land Use	Minimum Building Setbacks (ft.)			
	Front	Side	Street	Rear
Incinerator	800'	800'	800'	800'
Other SWPD Land Uses	25'	C - 15' or R - 40'	25'	C - 20' or R - 40'

NOTES to Table 6.8-31:

C - Indicates the building setback if the lot abuts a non-residentially zoned or designated lot.

R - Indicates the building setback if the lot abuts a residentially zoned or designated lot.

-The building setbacks indicated above are based on a maximum building height of thirty five (35) feet. All structures exceeding thirty five (35) feet in height shall provide the applicable setback stated in Table 6.8-36, and an additional setback of one (1) horizontal foot for each one (1) vertical foot of building exceeding thirty five (35) feet in height.

-Building setbacks shall be measured from the perimeter lot lines.

a. **Fencing and screening.** Where deemed necessary to protect the general public, safety fences of up to a height of six (6) feet shall be required. Such screening shall be of at least seventy-five (75) percent opaqueness to protect neighboring property from potential loss of use or diminution of land value or use.

b. **Access.** An access road, negotiable by loaded collection vehicles, shall be provided to the entrance of the facility.

(1) Access shall be restricted to specific entrances with gates that can be locked at all times and that carry official notice that only authorized persons are allowed on the site.
(2) The route to access the site shall be only via approved expressway, arterial or collector streets. No access shall be through local or residential streets.

c. **Drainage.** All drainage facilities shall be approved by the County Engineering Department and all other appropriate governmental agencies.

d. **Untreated surface water.** In no case shall untreated surface water runoff be permitted to discharge directly into lakes, streams, drainage canals, or navigable waterways other than into or through approved on-site containment areas.

e. **Wellfield protection.** Sanitary landfills shall meet the guidelines of Sec. 9.5, Wellfield protection.

f. **Flood areas.** The location of landfills in flood-prone areas shall be governed by the provisions of chapter 17-7, F.A.C.

g. **Performance standards.** The operation of these facilities shall conform to all rules and regulations of all governmental agencies having appropriate jurisdiction and to Sec. 7.8 (Performance Standards).

h. **Reclamation.** All sanitary landfills and open air resource recovery facilities shall submit a reclamation plan indicating proposed final elevations, ground covers, and proposed uses of the property. Reclamation of land used for the operation of sanitary landfills shall be as required by chapter 17-701, F.A.C.

i. **Surety.** Rehabilitation and reclamation approved surety shall be posted in the amount of two thousand five hundred dollars ($2,500) per acre for the total acreage included in the development application, unless bonded in phases. The surety shall:

(1) Run to the BCC;
(2) Be in a form satisfactory and acceptable to the BCC and the County Attorney;
(3) Specify the time for completion of rehabilitation and reclamation.
(4) One half (½) of the surety shall be released upon the submission to and approval of all the following by the Development Review Committee:
  (a) Written certification by an engineer registered in the State of Florida that all performance guarantees have been satisfied.
  (b) A certified "as built" drawing.
(5) In the event that rehabilitation and reclamation is to be conducted in phases, the following additional requirements shall apply:

(a) A phasing plan is to be submitted indicating the acreage of each phase, proposed duration of landfill usage and rehabilitation of each phase.
(b) The Development Review Committee must approve the phasing plan.
(c) Reclamation surety and rehabilitation for specific phases shall not be released until rehabilitation has been completed in accordance with the approved rehabilitation plan and certified in writing by an engineer registered in the State of Florida.
(d) Upon commencement of rehabilitation of the initial phase the next phase may commence upon written authorization by the Department. The applicable surety must be on file prior to authorization by the Department for the commencement of excavation on any subsequent phase.

j. **Record of landfill use.** Within one (1) year after the adoption of the rezoning or rezoning amendment resolution, a record showing that the property was used for a Resource Recovery and Management Facility shall be filed in the public records of Palm Beach County, Florida, to provide public notice in the chain of title that the subject premises has been used as a landfill site.

[Ord. No. 93-4]
[Ord. No. 93-4; February 2, 1993]

SEC. 6.9 VOLUNTARY DENSITY BONUS.

A. Purpose and Intent. The purpose and intent of the Voluntary Density Bonus (VDB) is as follows:

1. The VDB accommodates provisions for the development of housing affordable to very low and low income households in fulfillment of Policy 2.i.5 of the Housing Element of the Comprehensive Plan. For the purposes of this ordinance Affordable Housing is defined as Group A: households with incomes of 50% or less of the median adjusted gross income for households within the County; and Group B: households with incomes greater than 50% but less than or equal to 80% of the median adjusted gross income for households within the County. The development of affordable housing is accomplished by providing for an increase in permitted density (a density bonus) in exchange for the construction of affordable housing on site or off-site; or a payment in-lieu-of construction of Group A units into the Housing Trust Fund; or a combination of construction and an in-lieu payment.

2. The VDB addresses an equitable geographic distribution of affordable housing in accordance with Policy 2-g of the Housing Element of the Comprehensive Plan.

3. The VDB addresses the preservation of affordability of units, designated under the program, for Group A and Group B households in accordance with Policy 2-h of the Housing Element of the Comprehensive Plan.

4. The VDB provides for the implementation of Land Use Element Policy 7-a and that portion of the Land Use Element, Implementation Section which deals with income restrictions on residential densities of greater than eight (8) units per acre.

B. Authority.Authority to adopt this Section is pursuant to Article VIII, Sec.1, Fla. Const., the Palm Beach County Charter, Sec. 125.01, et. seq., Fla. Stat. and Sec.163.3161, et. seq., Fla Stat.

C. Applicability.In cases of conflict between this Section and other Sections of the ULDC, the provisions of this Section shall prevail.

1. **Location.**This section may be applied to any residential development proposed within the urban service area of unincorporated Palm Beach County.

2. **Discretionary Program.** The Voluntary Density Bonus Program is a discretionary program in which additional density may be granted if the granting of such additional density will further the County's objective of providing housing opportunities for Group A and Group B households. Nothing stated herein is intended to, and specifically is intended not to, create any property right(s) for the owner of any property.

3. **Concurrent Processing.** The Voluntary Density Bonus shall be considered and applied concurrently with an associated development order application. Such a development order shall be either a rezoning to a planned development district, an amendment to a planned development, or a conditional use, all of which require duly noticed public hearings before the Board of County Commissioners. Such hearings are necessary due to the accommodation of a land use intensity greater than that shown on the Future Land Use Map.

D. General. A development may exceed its permitted density, up to one hundred (100) percent, without prior approval of a Site Specific Comprehensive Plan Amendment. In exchange, the development must provide for affordable housing units by complying with the provisions of this Section 6.9.

1. **Manner of Providing Units.** The affordable housing shall be provided through construction of units on site, or on another site approved concurrent with the project approval, or through payment of an in-lieu-of construction fee, for Group A units only, into the Housing Trust Fund, or a combination of the above.

2. **Minimum Number of Units to be Provided.** The minimum number of affordable housing units to be accommodated shall be as follows:

   (a) For rental projects, 40% of the "bonus" units shall be designated for Group B and Group A households. Of those units, 50% shall be for Group A households except as provided in (b) below.
   (b) In circumstances where land value and development cost make the full accommodation of on-site Group A units infeasible, the number of such units may be reduced to a minimum of 6% of the bonus units provided the following requirements are met:
      i. For each unit of Group A housing which is reduced, 1.2 units of Group B housing shall be provided.
      ii. The VDB petition shall state that this option is being requested. The application shall contain appropriate data upon which the LUAB/LPA and the BCC may base their determination that the pre-requisite circumstance, as stated in (b) above, is applicable.
   (c) For ownership projects, 40% of the bonus units shall be designated for Group B households. There shall be no obligation to provide housing for Group A households.
   (d) The required unit count shall be established by rounding down to the nearest whole number, with a minimum of one unit.
   (e) In applying the VDB, only the number of units required pursuant to this Sub-Section 6.9.D.2 (Minimum number of units to be provided) shall be subject to qualifications, assurances, and restrictions as set forth below.

3. **Assurances of affordability.** The developer shall provide guarantees which, for a minimum period of fifteen years for rental units and ten years for ownership units, maintain the affordability for units that are

required to be for Group A and or Group B households. During this period of time no unit shall be rented except to a qualified household. The guarantee must be recorded in the public record. The proposed method and provisions regarding such assurance must be reviewed by the LUAB/LPA who shall make a recommendation to the BCC as to acceptability. The BCC shall make a final determination of acceptability at the time of consideration of the attendant development order application.

Sufficient information must be provided, as a part of the VDB petition, to allow the LUAB/LPA and BCC to make a reasonable assessment of the proposal. Items which may be considered include, but are not limited to:

(a) for projects where there are other participating agencies which have affordability restrictions e.g. State, Federal, a subordinated mortgage is generally acceptable,

(b) a subordinated mortgage to private institutions may be allowed when it is determined that there are significant provisions to mitigate the potential of default,

(c) the placement in escrow of 50% of the corresponding in-lieu payment with an arrangement where the balance decreases over time, e.g. 1/10 (sale) 1/15 (rental) per year,

(d) a stipulated resale agreement where certain increases in value are remitted to the Housing Trust Fund,

(e) restrictions on rental rate escalation,

(f) restrictions on conversion to nonresidential use, and,

(g) other arrangements which are previously reviewed and approved by the Office of the County Attorney.

4. **Income qualifications.** For units required to be Group A and/or Group B, a developer shall record in the public record a guarantee that the household, upon entry to the unit, shall meet the definition of a Group A or Group B household. The definition of very-low (Group A) or low income (Group B) households is as provided in Palm Beach County Ordinance 93-8, as amended. The manner of guarantee must be reviewed by the LUAB/LPA who shall make a recommendation to the BCC as to acceptability. The BCC shall make a final determination of acceptability at the time of consideration of the attendant development order. The form of the guarantee shall be approved by the Office of the County Attorney prior to certification of the final site plan.

5. **Limitations on restrictions.** No affordable housing units, which are required pursuant to this program, or units above the density of eight (8) units per acre shall be subject to restrictions beyond the income qualifications set forth herein.

   This provision may be waived by the BCC upon consideration of the following:

   (a) the need for the restriction in terms of providing housing for a specific target group e.g. disabled populations, but not including the elderly, and the assurances that the target group will, indeed, have access to the new housing,

(b) whether the restriction is in line with the objective of providing housing opportunities for Group A and Group B households, and,

(c) the impact, upon the immediate geographic area.

6. **Dispersal - Internal.** Units for Group A and Group B households shall be distributed throughout a development so that there is not a concentration of the VDB units.

(a) Affordable housing units must be distributed throughout the development.

(b) Developments that offer varied bedroom and floor area options shall include similar variation in the required affordable housing units.

(c) When specific percentages of Group A and Group B households are stated in an application, the manner in which the percentages are to be maintained shall be described.

(d) When the VDB is used in conjunction with other programs (e.g. HTF, SHIP, Tax Credits) which require a minimum amount of affordable housing that is in excess of the minimum required for the VDB, the VDB petition shall address all such units. If such minimums are imposed subsequent to approval of the VDB, it will be necessary to formally apply for a modification to the VDB development order.

(e) In addition to the above, when the percentage of units targeted for affordable housing is at, or exceeds, 50% of the total development, a management plan shall be a part of the application. Items to be addressed in a management plan include, but are not limited to: types and quantity of recreation facilities, tenant and/or ownership education services, accessibility to social service information and/or programs; on-site management, on-site day care facilities, on-site security, and, special crime prevention and crime reduction design considerations, and, assurances that the management plan shall be implemented and maintained.

(f) The manner in which the requirements of this Sub-Section 6.9.D.6 shall be maintained must also be provided in the VDB petition. Such manner must be reviewed by the LUAB/LPA who shall make a recommendation as to acceptability. The BCC shall make a final determination of acceptability at the time of consideration of the attendant development order. The form of the assurance shall be approved by the Office of the County Attorney prior to certification of the final site plan.

7. **Dispersal -External.** Units for Group A and Group B households shall be distributed equitably throughout Palm Beach County so that there is no undue concentration associated with the implementation of the VDB. The baseline for an acceptable concentration of Group A and Group B housing shall be forty percent (40%) of the occupied households in the sector. Study sectors which have a concentration of 40% or less shall be considered as, generally, acceptable for receiving additional Group A and Group B households. Study sectors which have a concentration of greater than 40% should generally be considered as having an undue concentration of Group A and Group B households. In either case, the 40% baseline is a guideline to be considered along with other information in making the assessment of equitable dispersal and undue concentrations. The assessment of equitable distribution shall involve the following:

(a) Analysis of housing and demographic data within a "study sector" which shall be delineated relative to the size and character of the proposed development and shall include such features as schools, shopping areas, street system, civic uses, and employment opportunities. For data purposes, the sector shall be adjusted to accommodate census tracts or census block groups.

(b) Household income characteristics for the study sector shall be derived from 1990 census data, as amended by the Census Bureau. The income level of a "family of four" shall be used for the determination of households within the Group A and Group B household categories.

(c) The ranking of the sector, as identified in the Palm Beach County Affordable Housing Study, June, 1994, with respect to Tables 2.3 and 2.4, Distribution of Households by Income Groups, shall be considered along with other information in making the assessment of equitable dispersal and undue concentrations.

(d) The above information, along with other relevant information from the Palm Beach County Affordable Housing Study, June, 1994, and developer supplied information, shall be considered by staff and the LUAB/LPA in making recommendations regarding equitable geographic distribution of affordable housing for compliance with Housing Element Policy 2-g.

8. **Allowable Density**: The density of the development shall not exceed a one hundred (100) percent increase above the permitted density. However, in no event shall the density exceed a maximum of sixteen (16) dwelling units per acre. "Permitted density" shall be determined by either: (a) the unit count allowed by density designation on the Future Land Use Atlas and as applied through provisions of Section 6.5 of the ULDC, or, (b) the allowable density of a previously approved development order, for the same property, pursuant to Sections 1.5 and 6.8 of the ULDC.

9. **Provisions of Basic Services**: For developments which have a density greater than eight (8) units per acre or which seek a density bonus equal to, or greater than, seventy percent (70%), there must be a demonstration of proximity to public transportation and employment opportunities so that residents will be able to access employment or other destinations appropriate for the type of housing without exclusive reliance on the automobile.

10. **Payment in-lieu-of construction.** A developer may elect to make a payment into the Housing Trust Fund in-lieu-of construction of Group A housing units.

(a) **Basis of the payment.** The payment shall be on a per unit basis of an amount equal to 1.2 times the unit's production cost. For the purpose of this Section 6.9, unit production cost shall be the base construction cost of the unit based upon gross floor area and construction cost per the latest edition of SBCCI, Building Valuation Data. The provisions of Section 6.9.D.2.b (varied floor plans) shall be considered in the calculation.

(b) **Establishing Amount of Payment**: The proposed amount of the in-lieu-of payment shall be included in the VDB petition. Establishment of the amount shall be a part of the development order. It shall be subject to reconsideration when consideration is given to an extension of time under ULDC Section 5.8.

(c) **Payment**. Payment shall be due prior to the issuance of the first building permit.

11. **Combination of construction of units and the payment in-lieu-of construction.** The developer may elect to construct a portion of the required Group A units in conjunction with a payment in-lieu-of construction to account for the remaining Group A units.

12. **Use of In-lieu Payments.** All in-lieu fees collected under this VDB shall be deposited in the Housing Trust Fund established by Palm Beach County Ordinance No. 93-8, as amended, and used for purposes contained therein.

13. **Displacement.** Any tenant displaced as a result of development of the VDB project, shall be the subject of a relocation program which will, at a minimum, describe efforts to relocate and/or make aware of comparable housing opportunities including the availability of housing at the subject site.

E. **Standards for Approval.** An application submitted under this Section 6.9 shall be reviewed for compliance with the following standards. Recommendations as to compliance shall be made by staff and the LUAB/LPA, as appropriate, with the final determinations being made by the BCC. Each of these standards must be met in order for a VDB award to be made.

1. The development must be located within the Urban Service Area.

2. The resulting development shall be deemed compatible with surrounding land uses. The determination of compatibility shall include:

   (a) a standard assessment of Future Land Use Designations, zoning designations, and actual use of the surrounding lands,
   (b) the impact of the proposed development upon surrounding land uses, both current and future, and,
   (c) the impact of the external environment upon the suitability and success of the proposed VDB development.

3. The development shall meet all concurrency requirements at the level of impact calculated at the bonus density.

4. The resulting affordable housing units will not result in an inappropriate concentration, pursuant to Section 6.9.D.6, of such housing within the proposed development.

5. The resulting affordable housing units will not result in an inappropriate concentration, pursuant to Section 6.9.D.7, of such housing within a given geographic area.

6. Adequate assurances as required in Sections 6.9.D.3, 4, and 5.

7. Adequate provisions for displaced tenants pursuant to Section 6.9.D.13.

8. The resulting development shall be consistent with the goals, objectives, and policies of the Comprehensive Plan and the provisions of this Section 6.9.

F. Review and Approval Process.

1. **Presubmittal Conference.** Prior to submittal of a petition requesting a density bonus, the applicant must attend a presubmittal conference with the Director of Planning, or designee, to establish the geographic area (sector) within which the dispersal analysis is to be made. A failure to establish the area in this manner may result in the rejection of the development application.

2. **Submission of Petition.** A petition for the VDB shall be submitted to the Planning Division concurrent with submission of a General Application for a Class A Conditional Use, a rezoning to a Planned Development District, or an Amendment to a previously approved Planned Development District (reference Section C) to the Zoning Division. The General Application shall be in accordance with the procedures of Section 5.4 or 6.8.A, as applicable. The VDB application form and required submittal materials shall be established by the Director of Planning. A site plan which shows the location of roadways, parking areas, buffer areas, recreation and amenity areas, and building areas along with typical building footprints shall be a part of the petition. The petition must identify any Flexible Property Development Regulations which are being sought pursuant to ULDC Section 6.5.L or Optional Residential Standards pursuant to Section 6.8.B.6.a.4.

3. **Determination of sufficiency.** The Planning Director shall determine the sufficiency of the petition within five (5) working days from its receipt. If it is determined that it is not sufficient, written notice shall be sent to the applicant specifying the deficiencies within three (3) working days of the determination. The Planning Director and Zoning Director shall take no further action unless the deficiencies are remedied. If the deficiencies are not remedied within twenty (20) working days, the petition shall be considered withdrawn. If the petition is determined sufficient, the Planning Director will process it pursuant to the procedures and standards of this Section 6.9.

4. **Review by CAH staff.** The petition shall be reviewed by the staff of the CAH after a determination of sufficiency but prior to consideration by the LUAB/LPA.

5. **Review by the LUAB/LPA.** The petition shall be reviewed by the LUAB/LPA after a determination of sufficiency but prior to consideration by the Zoning Commission of the associated development order. The Director of Planning shall present a report to the LUAB/LPA which describes how the proposed development complies with General Provisions as set forth in Section 6.9.D. and with respect to compliance with each of the Standards set forth in Section 6.9.E.

   The LUAB/LPA shall make a determination of compliance with each of the General Provisions. The LUAB/LPA shall recommend approval, approval with conditions or denial of the requested increase in density based on the Standards. The LUAB/LPA may recommend conditions in order to assure compliance with said General Provisions and/or the Standards.

   The LUAB/LPA's recommendation shall be forwarded to the BCC who shall have the final authority with regard to compliance with this Section 6.9.

6. **Review by the Zoning Commission.** Consideration of the VDP petition and its standards pursuant to this Section 6.9 shall be separate from the Zoning Commission's action on the development application. However, when applicable, the Zoning Commission shall take concurrent action with regard to the increased density, compatibility with the increased density on surrounding land uses, and the Flexible Property Development Regulations as allowed by ULDC Section 6.5.L or the Optional Residential Standards of Section 6.8.B.6.a.4.

7. **Action by the BCC**: All VDB petitions shall be approved, approved with conditions or denied by the Board of County Commissioners. The BCC shall act on the increased density allowable, through the VDB, by a motion separate from the associated development order. The BCC may rely upon the findings made by the LUAB/LPA in rendering its action. However, the actions of the LUAB/LPA shall be deemed advisory for the purpose of taking final action on a VDB petition. The BCC shall then act on the associated development order and may approve it at the requested density or at a lesser density.

G. Effect. Approval of a voluntary density bonus, by the Board of County Commissioners, shall grant the right to increase density consistent with the terms approved in the development order. The density bonus shall run with the development order.

1. **Amendments to a voluntary density bonus.** A density bonus may be amended, extended, varied or altered only pursuant to the standards and procedures established for its original approval, or as otherwise set forth in this section.

2. **Map designation of a density bonus development.** A development which receives an approved density bonus shall be designated by a symbol on the Future Land Use Atlas and the Official Zoning Map until the development is built-out. At that time, the Future Land Use Atlas shall be changed, by action of the County, to reflect the total density of the development.

3. **Transfer of a density bonus.** A density bonus runs with the development order and may be transferred to a new owner of the development only if the new owner agrees to fulfill all the terms of the agreement made by the original owner. Density gained through the VDB shall not be eligible for use in the Transfer of Development Rights Program.

4. **Subject to Section 5.8, Compliance with Time Limitations.** The increase in density allowed by an approved VDB is subject to provisions of Section 5.8. During such review the VDB shall be re-evaluated pursuant to the Standards of Section 6.9.E and, the Provisions of Section 6.9.D.

5. **Review.** This Section 6.9 shall be reviewed on an annual basis commencing in January 1997 in order to ascertain its effectiveness and determine if changes are warranted. The review shall occur by a written report, prepared by the Planning Division, to the BCC. The report shall address, at a minimum, the number of applications received, the role of the LUAB/LPA in the review process, the number of units approved, the number of units constructed, and the identification of any problems or concerns associated with the implementation and administration of this Section 6.9.

[Ord. No. 95-24] [Ord. No. 96-14]

[Ord. No. 93-4; February 16, 1993] [Ord. No. 95-24; July 11, 1995] [Ord. No. 96-14; April 16, 1996]

SEC. 6.10 TRANSFER OF DEVELOPMENT RIGHTS - SPECIAL DENSITY PROGRAM

A. Purpose and intent. The purpose of this section is to provide for an Interim Transfer of Development Rights (TDR) Program, including the establishment of a TDR Bank, to facilitate both the protection of environmentally sensitive lands and to promote orderly growth in Palm Beach County. This is accomplished by allowing development rights to be severed from environmentally sensitive lands and transferred to sites where additional development can be accommodated. The Transfer of Development Rights program is designed to redistribute population densities, or development potential, to encourage the most efficient use of services and facilities.

Further, it is the purpose and intent of this ordinance to provide an alternative to the development of environmentally sensitive lands by establishing a mechanism to seek economic relief from the limitation of development imposed on these lands. Transfer of Development Rights can mitigate inequities in the valuation of land by providing a means of compensating landowners whose property is restricted, by permitting the sale of development rights, and making landowners in more intensively developed areas pay for the right to develop beyond the existing density, by purchasing development rights.

This Interim TDR program shall be replaced by a permanent TDR program to be adopted by the Board of County Commissioners upon completion of the Urban Form Study. All approved development right transfers and certificates issued during the interim program shall remain valid and shall not be affected nor changed by adoption of the permanent program.

B. **Authority**. The Board of County Commissioners has the authority to adopt this section pursuant to Article VIII, Sec. 1, Fla. Const., the Palm Beach County Charter, Sec. 125.01, et. seq., Fla. Stat., and Sec. 163.3161, et. seq. Fla. Stat.

C. **Applicability**. This section shall apply to property in unincorporated Palm Beach County which is located within designated sending areas, as defined in Sec. 6.10.G. Development rights may be transferred from sending areas pursuant to the procedures contained in this Section, to property in unincorporated Palm Beach County which meets the qualifications to receive such density according to Sec. 6.10.I and the standards contained herein.

In addition, Sec. 6.10.H shall apply to all "A" quality native ecosites purchased by the County, including those located within the incorporated area of the County.

D. **Definitions**. The following terms, whenever used in this section, shall apply only to the transfer of development rights procedures as provided for in this Section and shall be defined as follows. Other terms used in this Section shall have the meanings set forth in this Code, if defined herein. The definitions of this TDR Section shall apply in cases of word or phrase conflicts with definitions elsewhere in this code.

Conservation Easement - means a right or interest in real property which is appropriate to retaining land or water areas predominately in their natural, scenic, open, or wooded condition; retaining such areas as suitable habitat for fish, plants, or wildlife; retaining the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance, as set forth in Sec. 704.06, Fla. Stat.

Contract for Sale and Purchase of Development Rights - A valid contract which must be in writing pursuant to Florida law, for the sale of real property (Development Rights).

Deed of Transfer of Development Rights - A legal document which transfers the ownership of specified Transferable Development Rights from one owner to another, and which is recorded in the Public Records of Palm Beach County.

Density - The number of dwelling units per gross acre of land.

Density Bonus - An increase in the residential density of development that the County permits on a parcel of land over and above the maximum (PUD) density permitted by the 1989 Palm Beach County Comprehensive Plan for the future land use category in which it is located.

Development Right- The ability to develop a residential dwelling unit which can be transferred to another property. The land owner may sell or donate the development rights and still retain the title to the land and the right to use the surface of the land on a limited basis. For the purpose of this Section, one development right shall equal one residential dwelling unit.

Development Rights Certificates - A legal document presented to a property owner who donates property within a sending area to the County. The certificate shall specify the number of development rights the property owner is entitled to sell or trade on the market, and the certificate shall remain valid until the development rights are permanently attached to property within a receiving area.

Purchase of Development Rights (PDR) - The PDR concept is similar to the purchase of easements by an agency of government. The unit of government purchasing the development rights does not become the owner of the property, but only purchases specific rights to use the land according to the easement agreement. Such a purchase would preclude the future development of the land.

Receiving Area- Parcels of land within the Urban Service Area, which are permitted to increased density, as specified herein, and receive development rights purchased from the owners of land in a sending area. The transfer capacity of these development rights is based on the number of Transferable Development Rights which a specified area can accommodate, subject to Sec. 6.10.L and 6.10.K.

Sending Area- An area containing the land based resource which the TDR program is designed to protect, as specified herein, and from which Development Rights are transferred pursuant to provisions of this section.

Transfer of Development Rights Bank - An accounting and monitoring system authorized by this Code empowering the County to purchase and sell development rights. The TDR Bank offers an alternative to TDRs being transferred only via the private market. The bank or development rights fund utilizes County funds, when budgeted, to purchase the development rights from lands designated for preservation. These rights may then be sold to developers, or auctioned off, for use in qualified receiving areas or held in reserve for future release. The proceeds from the sale of development rights deposited in the fund shall be utilized to purchase environmentally sensitive lands, unless otherwise allocated by the Board of County Commissioners.

Urban Services Area - That portion of the unincorporated area of Palm Beach County designated as the "Urban Services Area" by the Palm Beach County Comprehensive Plan (Ordinance 89-17 as amended from time to time).

E. **TDR Program in General**. The Transfer of Development Rights program allows a property owner to achieve a density bonus by purchasing the increase in density from the County TDR Bank or from a property owner with land in a designated sending area, without going through the land use amendment process. In order to increase density, the site must meet the requirements to become a designated receiving area and follow the procedures as described in this Section. After development rights have been transferred from the sending area to the receiving area, a conservation easement shall be attached to the sending area and recorded in the public records of Palm Beach County, restricting future development potential.

F. Administration.

1. **General**. Except as otherwise specified, the TDR program shall be administered by the Planning Director, who may designate responsibilities regarding the program to one or more members of the Planning Division staff.

2. **Responsibilities**. The Planning Director, or designee, shall be responsible for:

   a. Establishing, administering and promoting the County's transfer of development rights program;

   b. Establishing and administering the transfer of development rights bank;

   c. Ensuring the orderly and expeditious processing of transfer of development rights applications under this Section;

   d. Ensuring the contract for sale and purchase of development rights is executed, all deeds and conservation easements are filed in the public records of Palm Beach County;

   e. Ensuring that the Property Appraisers Office is notified of all transfers of development rights;

   f. Ensuring that the future land use map is amended by a staff initiated land use map amendment to reflect an appropriate future land use designation for the sending area; and

   g. Coordination with municipalities in the administration of the TDR provisions.

G. Sending Areas.

1. **General**. Sending Areas represent those areas of the County that are designated by the Board of County Commissioners (BCC) to warrant protection. The owner of property in a designated sending area may transfer the development rights to a parcel of land in a designated receiving area, subject to the provisions of this Section.

2. **Eligible Sending areas shall include**:

   a. Lands designated RR-20 on the Future Land Use Atlas.

   b. All "A" quality sites as designated on the Inventory of Native Ecosystems which retain their function and value as determined by the Palm Beach County Department of Environmental Resource Management (ERM); and

   c. Other sites determined by the BCC to be worthy of protection. At such a time that the BCC determines that a parcel of land is environmentally sensitive, or preservation of the site is in the public interest, the parcel is eligible to become a designated sending area. The site shall be designated by resolution of the BCC.

3. **Overlap in Sending Areas.** In such cases where a parcel of land is both a Native Ecosystem "A" quality site and designated RR-20 on the future land use atlas, all provisions in this section pertaining to the "A" quality sites shall prevail.

4. **Transfer Rate.** The owner of land which is designated as a sending area may elect to transfer development rights as provided in this section. Development Rights may be transferred from sending areas according to the following schedule:

   a. Development rights may be transferred from property designated RR-20 at the rate of one (1) development right per five (5) acres. The minimum land area eligible for the transfer of development rights shall be ten (10) acres.

   b. Development rights may be transferred from Native Ecosystem "A" sites located outside of the Urban Service Area at a transfer rate of one (1) development right per five (5) acres. The minimum land area eligible for the transfer of development rights shall be five (5) acres.

   c. Development rights may be transferred from all Native Ecosystem "A" Sites located within the Urban Service Area at a rate equal to the maximum density permitted by the future land use designation. The minimum land area eligible for the transfer of development rights shall be five (5) acres.

   d. Development rights may be transferred from all environmentally sensitive sites described in 6.10.G.2.c determined by the BCC to be worthy of protection at a rate which equals the maximum density permitted by the future land use designation for the property, or a rate determined appropriate by the BCC. The minimum land area eligible for the transfer of development rights shall be the size of the subject parcel.

5. **Transfer Limitations.** If the owner of land in a sending area only transfers a portion of the development rights available for the property, the County, upon recommendation from the Planning Division and ERM, reserves the right to determine which portion of the land is subject to the conservation easement. The intent is to preserve the highest quality environmentally sensitive land, link high quality sites when possible, and allow compatible development to occur on the remainder of the site.

6. **Computation of the Development Rights.** The number of development rights assigned to a sending area parcel of land shall be determined by the Planning Director pursuant to Sec. 6.10.J., as calculated below:

   a. All development rights shall be in whole numbers, no fractions shall be permitted. Any fractional residential unit that may occur during calculations shall be converted upward, if one-half or more of a whole unit, or downward, if less than one-half of a whole unit, to the nearest whole unit.

   b. The amount of development rights assigned to a sending area parcel shall be reduced by one dwelling unit for every conforming residential structure situated on the property at the time of approval.

7. **Restriction on Future Use.** Upon closing and execution of the Contract for Sale and Purchase, a conservation easement shall be recorded in the public records of Palm Beach County. The easement agreement shall restrict further use of the land, guarantee that the sending area will be retained in its natural condition, and will not be used in any manner except as stipulated in the agreement. In addition, the residential development rights of the subject property shall be considered severed in perpetuity.

8. **Existing Uses.** Residential dwelling units which existed prior to making application to transfer development rights shall be permitted to remain as legal conforming uses. All other uses shall be considered non-conforming.

9. **Remaining Land Area.** If all of the development rights assigned to a sending area are not transferred off the site, the remaining land, if proposed for development, shall be developed in a manner which is compatible with the surrounding area.

H. **County Transfer of Development Rights Bank.**

1. **General.** The purpose of this paragraph is to authorize the establishment of a transfer of development rights bank. The TDR Bank is hereby created in order to, among other things, facilitate the purchase and transfer of development rights as hereinafter provided and maintain an inventory of those development rights purchased by the County.

2. **Establishment of Development Rights for the Bank.** Development rights for the TDR Bank shall be generated from the following sources:

   a. Development rights severed from environmentally sensitive lands and purchased by the County, including the Native Ecosystem "A" quality sites targeted for purchase through the County's bond issue. Those "A" quality ecosites in the unincorporated area of the County which are not purchased as part of the acquisition program, shall maintain the opportunity to transfer development rights on the open market.

   b. Development rights purchased by the County while allowing the property owner to retain ownership of the sending area parcel. The property owner shall agree to a conservation easement at the same time development rights are purchased by the County.

   c. Development rights associated with other lands purchased by the County, in whole or in part, for the purpose of protection of environmentally sensitive lands, including wetlands.

3. **Transfer rate from the Purchase of Environmentally Sensitive Lands.**

   a. **Land purchased inside the Urban Service Area.** The number of development rights severed, or generated for the bank, shall equal the maximum density allowed by the future land use designation as established by the applicable County or municipal Comprehensive Plan. County staff shall coordinate with municipal staff for parcels within municipalities, to determine the number of development rights associated with the land.

   b. **Land Purchased outside the Urban Service Area.** The number of development rights severed, or generated for the bank, shall equal the TDR transfer rate established in Sec. 6.10.G.4 and the Comprehensive Plan.

   c. **Land Designated Commercial or Industrial.** Development Rights associated with land designated commercial or industrial shall be converted from the applicable FAR to dwelling units per acre utilizing a conversion formula approved by the BCC.

4. **The Application, Sale and Value of Development Rights**. The County may sell development rights to property owners who meet the receiving area criteria pursuant to this Section.

   a. A property owner seeking an increase in density must apply to become a receiving area through the Planning Division, and enter into an Option or Contract for Sale and Purchase of Development Rights before proceeding through the Receiving Area process - Sec. 6.10.K.

   b. The value and price of a development right shall be set by the BCC based on at least one of the following:

      (1) current market value;
      (2) recommendation from the Land Use Advisory Board and the Planning Division; and/or
      (3) an auction for sale of development rights certificates.

5. **Annual Report**. The Planning Director shall present an annual report to the Board of County Commissioners which outlines: the number of development rights currently in the bank; the number of rights available for sale; the number of rights sold during the year; the purchase price per development right; recommendations for improving the TDR program; and any other information deemed relevant.

6. **Revenue from the Sale of TDRs**. The revenue generated from the sale of development rights shall be earmarked for the Natural Areas Fund for acquisition and management of environmentally sensitive lands and wetlands.

I. Receiving Areas. Development rights shall only be transferred to those parcels which meet the qualifications for designation as receiving areas.

1. **Eligible Receiving Areas include**:

   a. Property owners requesting an increase in density above the maximum density allowed by the future land use designation. To qualify as a receiving area, the land shall:

      (1) be located within the Urban Service Area;
      (2) be compatible with surrounding land uses and consistent with the Comprehensive Plan;

      (3) meet all concurrency requirements;
      (4) meet all requirements as outlined in the Unified Development Code; and
      (5) be a Planned Development (a PUD with a reduced minimum lot size of twenty (20) acres pursuant to BCC approval, a MXPD, or a MHPD (see sec. 6.8, Planned Development District Regulations).

   b. Property owners proposing a Traditional Neighborhood Development (TND), and requesting a bonus density above the underlying land use designation, as specified in this Code.

2. **Residential Density Bonus**. The maximum number of development rights which may be transferred to the receiving parcel shall be determined in accordance with Sec. 6.10.K and 6.10.L. The following density increases may apply to properties which meet the receiving area criteria.

a. Approved Planned Development receiving areas may receive a bonus density of up to two (2) du/acre, above the maximum density allowed by the future land use designation. Residential development at a density greater than eight (8) du/acre shall only be for low/very low income housing as defined in the Comprehensive Plan.

b. Approved Traditional Neighborhood Developments may receive a bonus density of up to two (2) du/acre above the underlying land use designation.

3. **Prohibitions**. Under no circumstances shall a receiving area contain any "A" quality ecosites as listed in the Inventory of Native Ecosystems and referenced in the County Comprehensive Plan.

J. **Transfer of Development Rights: Sending Area Procedure.**

1. **Sending Parcel Application**. The property owner of environmentally sensitive lands which are designated sending areas as defined under Sec. 6.10.G must make application for an administrative determination in order to be formally designated as a sending area. The purpose of this administrative determination is to ascertain the exact number of Development Rights the property owner is entitled to. The application shall include, at a minimum:

a. Proof of ownership;

b. A legal description of the property;

c. Contract, or option, for the purchase and sale of development rights (unless requesting a TDR Certificate, as outlined in Sec. 6.10.J.6).

2. **Review Process.**

a. Within fifteen (15) working days from receipt of the application, the Department of Environmental Resource Management (ERM) shall complete a site check to ensure that the site has not been altered. Within five (5) working days from completion of the site check, ERM shall complete a written recommendation to the Planning Director regarding the site.

b. Within five (5) working days upon receiving the ERM recommendation, the Planning Director shall complete the review of the application.

3. **Written Determination**. The property owner shall receive a written determination indicating how many development rights can be sold on the market. The number of development rights for the site shall be documented and be kept on file at the PZB Department.

The written document shall be valid for a period of twelve (12) months. If any modifications or alterations are made to the property during the twelve month period, the property owner shall not be permitted to participate in the transfer of development rights program.

4. **Easement Agreement**. Simultaneous with closing on the contract for purchase and sale of development rights, the owner of land in the sending area shall execute a conservation easement in a form acceptable to the County Attorney's Office. The easement agreement shall restrict future use of the land, shall become part of the title to the land and filed in the public records of Palm Beach County.

5. **Re-submittal of Application**. The owner of a sending parcel may re-apply until all development rights have been severed from the property.

6. **Development Rights Certificates**. A Palm Beach County Development Rights Certificate is a legal document which permits a property owner to retain and sell development rights after donating environmentally sensitive lands (sending areas) to the County. These lands shall be managed by the County or its designee. In such cases, TDRs shall be treated in a manner similar to retention of mineral rights and shall be recognized upon recording of a deed transferring ownership from the property owner to the County.

   a. **Eligibility**. Development Rights certificates shall only be issued to property owners with land in sending areas that donate the environmentally sensitive land to the County and follow the procedures in this Sec. (6.10.J.1, 2 & 3). The development rights certificate shall require that restrictions be placed on the sending area prior to the sale of those development rights. A minimum donation of five acres is required.

   b. **Issuance of the Certificate**. Upon completion of the Application process, and recordation of the deed transferring ownership of the property to Palm Beach County, the property owner shall be issued a development rights certificate. The certificate shall indicate the exact number of development rights which can be sold, transferred, or traded, by the holder of such certificate. The certificate shall remain in effect until applied to a Planned Development or TND in accordance with provisions of this Section.

7. **Limitations**. The amount of development rights assigned to a sending area parcel, or indicated on a certificate, shall be reduced by one for every conforming residential structure situated on the property at the time of application.

K. Transfer of Development Rights: Receiving Area Procedure.

1. **General**. Transfer of Development Rights are considered a special density program and receiving areas shall be approved concurrent with issuance of a development order for a Planned Development or TND. The following procedures shall be followed in order to become a receiving area in Palm Beach County and obtain the density bonus.

2. **Preapplication Conference**. Prior to submittal of an application requesting a receiving area density bonus, the applicant must attend a preapplication conference with the appropriate PZB staff, pursuant to Article 5 of this Code, to review the proposed development, and the requirements and procedures of the Transfer of Development Rights Program.

3. **Threshold Review**. In order to receive a Threshold Review Certificate pursuant to Article 5, the application submitted requesting a receiving area designation for a parcel of land shall be reviewed and the parcel approved to receive the designation and density bonus pursuant to the following procedures:

a. **Submission of Application.** In conjunction with the general application submitted pursuant to Sec. 5.1.C., an applicant for receiving area status and a density bonus must submit all necessary information and material, including a contract (or option) for sale and purchase of development rights, as required by the TDR program.

b. **Determination of Sufficiency.** The Planning Director shall determine the sufficiency of an application for Transfer of Development Rights program within five (5) working days from the receipt of the application from the Zoning Director.

(1) If it is determined that the application is not sufficient, written notice shall be served on the applicant specifying the deficiencies within ten (10) working days of the determination. The Planning Director shall take no further action on the application unless the deficiencies are remedied. If the deficiencies are not remedied within twenty (20) working days, the application shall be considered withdrawn.

(2) If the application is determined sufficient, the Planning Director will proceed to review the application pursuant to the procedures and standards of this section.

c. **Review and decision of the Planning Director.** Within fifteen (15) working days after the Planning Director determines the application is sufficient, the Planning Director shall review the application to determine if the applicant has complied with the preliminary requirements for a receiving area pursuant to Sec. 6.10.I.

(1) The Planning Director shall prepare a report which outlines the conditions necessary for approval of a receiving area for transfer of development rights or outlines the justification for denial of the receiving area designation and the subsequent density bonus. Written notification in the form of a letter or agreement, specifying how the applicant shall fulfill all requirements shall be attached to the application or may be incorporated into a Development Agreement required to fulfill the adequate facilities ordinance. The applicant will be notified upon completion of the report.

(2) In addition to the requirements of the Threshold Review, Sec. 5.1.D., a letter of agreement or Development Agreement incorporating the items of the letter must accompany the adequate facilities component of the application prior to issuance of a Concurrency Reservation or Conditional Concurrency. Reservations shall be based on the total density of the development including the density bonus to be granted pursuant to the TDR Program.

d. **Review by the Land Use Advisory Board.** Within thirty-five (35) working days of the completed Planning report, the Land Use Advisory Board (LUAB) shall consider the application, the Planning report, the relevant support materials, and testimony at a meeting with regard to land use compatibility. After the close of the meeting, the LUAB shall recommend approval, approval with conditions or denial of the application. Upon failure of the LUAB to make a recommendation within 35 working days, the applicant, with a preliminary report recommending the approval of the receiving area and density bonus request, may proceed in the development review process and receive threshold review certificate for a density evaluation pursuant to the procedures described in Sec. 6.10.L. By mutual consent of the Planning Director and the applicant, the time frame for the LUAB review may be extended beyond thirty five (35) days.

e. **Standards**. All applications for the transfer of development rights program receiving area shall comply with these standards:

(1) The proposed development and request for receiving area density bonus shall be compatible with surrounding land uses and consistent with the Comprehensive Plan.
(2) The development shall be a proposed Planned Development or TND and be located within the Urban Service Area.
(3) The development shall be located pursuant to Sec. 6.10.C. - Applicability.
(4) The requested density increase shall not exceed two dwelling units per acre above the maximum density permitted by the future land use designation. Additional units above eight (8) dwelling units per acre shall only be for affordable housing as defined in the Land Use Element of the Comprehensive Plan.
(5) The application shall be recommended for approval or approval with conditions by the Planning Director or the Land Use Advisory Board to proceed in the development review process.

f. **Issuance of a Preliminary Report**. A preliminary report prepared by the Planning Director shall be issued within seven (7) working days of LUAB action or inaction. The report shall identify all conditions that must be fulfilled by the developer in order for the property to be designated a receiving area, and receive the requested or recommended increase in density.

L. **Development Review Procedures for the Transfer of Development Rights Receiving Area Applicants**. Upon the issuance of the preliminary report approving the request, and the certificate necessary for threshold review, the property owner shall proceed through the development approval process pursuant to Sec. 5 of this Code and the procedures described herein.

1. **Review and recommendation of the DRC**. The Development Review Committee (DRC) shall review an application for the Transfer of Development Rights Program to permit the use of the approved bonus density by providing flexibility in the application of the land development regulations. The DRC shall review the application, preliminary report, letter of agreement or Development Agreement and recommend approval, approval with conditions, or denial of the application based on the standards in this Section and Article 5 of this Code.

2. **Review and recommendation of the Zoning Commission**. Within twenty (20) working days of the recommendation of the DRC, the Zoning Commission shall consider the application, the preliminary report, the LUAB recommendation, the DRC recommendation, the relevant support materials, and public testimony given at a hearing. After the close of the public hearing, the Zoning Commission shall recommend to the Board of County Commissioners approval, approval with conditions, or denial of the application and the proposed increase in density based upon standards in this Section and Article 5 of this Code.

3. **BCC Findings**. In addition to fulfilling the standards of Sec. 6.10.K.e., to quality as a receiving area and be eligible for an increase in density the Board of County Commissioners shall find that:

a. The Transfer of Development Rights is by deed, and the deed shall be recorded with the County in the same manner as a deed for real property before final site plan approval.

b. The transfer is to a parcel of land which is a Planned Development or TND, and meets all the requirements of this Code and within which the transferred densities have been included and amended.

c. The proposed development meets all concurrency requirements at the level of impact calculated to include the "bonus" density.

d. If the transfer is between two private parties, at the time the transfer is approved as part of a Planned Development, the entire sending area from which transfers will occur shall be subject to a conservation easement and shall be identified on the Zoning Map. Pending recording of the conservation easement, no development approvals or development permits will be issued for the sending area.

e. If the transfer of rights is from the County TDR Bank, all rights have been accounted for and there are enough development rights in the bank to cover the project.

f. The proposed development and density are compatible with the surrounding area and land use.

4. **Conditions**. The Planning Director, Land Use Advisory Board, Development Review Committee or Zoning Commission may recommend and the Board of County Commissioners may impose such conditions in approval of a transfer of development rights and designation of receiving area that are necessary to accomplish the purposes of the Comprehensive Plan and this Code to prevent or minimize adverse effects upon the public and neighborhood.

5. **Notification to Property Appraisers Office**. Upon approval of the receiving area and deeds of transfer filed, the Planning Director shall notify, within five (5) working days, the Property Appraisers Office in writing that property development rights have been transferred from the sending area to the receiving area in perpetuity and that:

a. The seller shall be entitled to reduction of taxes to a level of conservation only; and

b. The development rights transferred shall run with the receiving parcel and the parcel shall be reassessed at the approved density.

M. **County Initiated Land Use Amendment**. Concluding the transfer of development rights and providing that all standards have been met and deeds of transfer filed, the Planning Division upon direction from the BCC shall initiate a County Comprehensive Plan Land Use Map Amendment to accurately reflect the use of the sending area parcel as Conservation or indicate that a conservation easement exists.

The receiving area shall be designated to reflect the approved density during the five year revision to the Comprehensive Plan as required by Florida Statutes.

N. **Accounting for TDR Density**. Density needed for the TDR program may be derived from different sources including, but not limited to:

1. Comprehensive Plan Amendments since 1990 (reductions in density);

2. Comprehensive Plan Unaccounted Population "Pocket People"; and

3. Planned Unit Development Unused Density.

The PZB Staff, in conjunction with establishment of the TDR Bank, shall conduct an "accounting" system for monitoring density availability and density transfers in the TDR Program. At such a time that the TDR Program, any subsequent density bonus programs, or amendments to the Comprehensive Plan requesting an increase in density, deplete the number of units available from unaccounted population (pocket people), and from previous amendments, PZB Staff shall begin a formal accounting system to monitor the units which have been approved through the zoning process, but which have remained unused. The later units shall at that time be considered as a source for density for the TDR Program.

ARTICLE 7.

SITE DEVELOPMENT STANDARDS

TABLE OF CONTENTS

		Page
SEC. 7.1	GENERAL.	1
A.	Purpose and intent	1
B.	Authority	1
SEC. 7.2	OFF-STREET PARKING AND LOADING.	1
A.	Purpose and intent	1
B.	Applicability	1
1.	New buildings	1
2.	Additions and enlargements	1
3.	Off-street parking and loading schedule	1
C.	Off-street parking	8
1.	Computing parking standards	8
2.	Location of required parking	8
3.	Use of required off-street parking areas	9
4.	Parking fees	9
5.	Motorcycle parking	9
6.	Handicapped parking	10
7.	Guest parking	10
8.	Shared parking	10
9.	Off-site parking	12
10.	Grassed parking	13
11.	Valet parking	14
12.	Parking area design and construction standards	14
13.	Ingress and egress to vehicular use areas	21
14.	Queuing standards	21
15.	Public, private or commercial parking lots	24
16.	Standards for parking structures	25
17.	Parking of vehicles and boats in residential districts	25
D.	Off-street loading	27
1.	Computing loading standards	27
2.	Loading space ratios	27
3.	Location of spaces	28
4.	Loading demand statement	28
5.	Relationship to streets and off-street parking areas	28
6.	Dimensional standards and design requirements	28
7.	Entrances and exits	29
8.	Paving and drainage	29
9.	Access marking	29
10.	Reduction in required loading space	29
11.	Repair activities	30
12.	Landscaping	30
SEC. 7.3	LANDSCAPING AND BUFFERING	30

A. Purpose and intent 30
1. Aesthetics 30
2. Environmental quality 30
3. Water conservation 30
4. Preservation of native plants and vegetation 30
5. Efficiency in land development 30
6. Land values 30
7. Human values 30
8. Removal of prohibited plant species 31
9. Improved design 31
B. Applicability 31
C. Exemptions 31
1. Enlargement or repair of single-family or duplex development 31
2. Buildings or structures accessory to single-family or duplex development . . 31
3. Vehicular use areas within or on top of a building 31
4. Bona fide agricultural production 31
5. Development that does not entail a substantial change in use 31
6. Development with site development or building permit approval 31
D. Procedure 31
1. General 31
2. Contents of proposed landscape plan 32
E. Landscape standards 33
1. Tree planting and preservation standards 33
2. Interior of vehicular use areas 34
3. Landscape buffer strips 36
4. Tree credits 41
5. Tree replacement 42
6. Alternative landscape betterment plans 42
F. Tree and landscape material standards 43
1. General 43
2. Plant quality 43
3. Tree and plant species list 44
4. Artificial plants 44
5. Drought-tolerant plants 44
6. Tree diameter and height 44
7. Tree crown and canopy 44
8. Required tree species 44
9. Palm trees 45
10. Tree species mix 45
11. Hedges and shrubs 45
12. Vines 45
13. Ground treatment 45
14. Prohibited plant species 46
15. Eradication of prohibited plant species 46
16. Controlled plant species 46
G. Water conservation 47
H. Installation, maintenance, irrigation and replacement 48

1. Installation . . . 48
2. Replacement . . . 48
3. Maintenance . . . 48
4. Tree Pruning . . . 48
5. Irrigation . . . 49
6. Curbing and encroachment of vehicles . . . 50
7. Use of landscaped areas . . . 51
8. Safe sight distance triangles . . . 51

I. Landscape in rights-of-way and easements . . . 52
1. Right-of-way landscape . . . 52
2. Landscape in easements . . . 52

J. Special landscape and vegetation protection standards . . . 52
1. Lake Worth and Loxahatchee River buffers . . . 52
2. Native plant community set aside . . . 52
3. Wetlands . . . 52
4. Surface water management tracts . . . 52
5. Care and maintenance . . . 52

K. Temporary suspension of landscape standards . . . 52
1. Performance surety . . . 53
2. Surety bond requirements . . . 53

L. Administration . . . 53
1. Field inspections . . . 53
2. Optional special certification . . . 53

M. Enforcement . . . 54
1. Fines . . . 54
2. Violations . . . 54
3. Restoration and maintenance . . . 54
4. Review board . . . 54
5. Additional sanctions . . . 54
6. Zoning Map . . . 54
7. Justification . . . 54

SEC.7.5 VEGETATION PRESERVATION AND PROTECTION . . . 54

A. Purpose and legislative intent. . . . 54
1. Purpose . . . 54
2. Legislative intent . . . 55

B. Applicability . . . 55

C. Authority . . . 56

D. Exemptions . . . 56
1. Single-family or two (2) residential units with a building permit . . . 56
2. Enlargement or repair . . . 56
3. Land surveyor . . . 56
4. Public and Private Utilities . . . 56
5. Natural emergencies . . . 56
6. Forest management activities . . . 56
7. Botanical gardens, botanical research centers, or licensed commercial nurseries . . . 56

8. Parks and Recreation . . . 57
9. ERM . . . 57
10. Environmental/Conservation Organization . . . 57
11. Vegetation Removal . . . 57

E. Permits . . . 57
1. Types of vegetation removal permits . . . 57
2. Permit application procedures and requirements . . . 58
3. Application sufficiency review . . . 60
4. Permit issuance . . . 60

F. Site inspections . . . 60
1. Pre-clearing inspection . . . 60
2. Clearing inspection . . . 60
3. Post-clearing inspection . . . 60
4. Annual preservation inspection . . . 60
5. Additional inspections . . . 61

G. Site development requirements . . . 61
1. Preserve areas . . . 61
2. Prohibited storage or access . . . 61
3. Vegetation damage and replacement . . . 61
4. Erosion control . . . 61
5. Tree protection manual . . . 61
6. Permit conditions . . . 61

H. Prohibited plant species . . . 62
1. Plant list . . . 62
2. Removal and site inspections . . . 62
3. Phased development . . . 62
4. Phased removal . . . 62
5. Preserve Area - Removal of Invasive Non-Native Plants . . . 63

I. Vegetation relocation . . . 64
1. Voluntary vegetation salvage . . . 64
2. Vegetation disposal . . . 64

J. Permit expiration . . . 64
1. Extension of permit . . . 65
2. New permit required . . . 65
3. Permit prominently displayed . . . 65
4. Permit transfer . . . 65

K. Preserve areas . . . 65
1. Exclusions . . . 65
2. Procedure . . . 65

L. Enforcement . . . 68
1. Fines . . . 68
2. Violations . . . 68
3. Restoration . . . 69
4. Review board . . . 69
5. Additional Sanctions . . . 69

M. Appeals . . . 69
1. Submittal . . . 69

2. Hearing . . . 69
3. Judicial Relief . . . 69

N. Variation from Minimum Property Development Regulations . . . 69

SEC. 7.6 EXCAVATION . . . 70
A. Purpose and intent . . . 70
B. Applicability . . . 70
C. Exemptions . . . 70
D. Prohibited Excavations . . . 72
E. Excavation Types . . . 72
1. Type I (A) excavation . . . 72
2. Type I (B) excavation . . . 72
3. Agricultural excavation . . . 72
4. West County Agricultural Area (WCAA) Excavations . . . 72
5. Type II excavation . . . 72
6. Type III excavation . . . 72
F. General Criteria For Excavations . . . 73
1. Setbacks . . . 73
2. Sloping and Grading. . . . 73
3. Depth . . . 73
4. Littoral Zones . . . 73
5. Water quality . . . 76
6. Hauling material off site . . . 76
7. Objectionable odors . . . 76
8. Existing topsoil . . . 76
9. Hours of operation . . . 76
10. Emissions of fugitive particulate matter . . . 76
11. Final site conditions . . . 76
12. Surety Requirements for Littoral Plantings for Agricultural and Type III Excavations . . . 76
13. Additional surety requirements for Type III Excavations (upland reclamation) . . . 77
G. Specific Criteria . . . 78
1. Agricultural Excavations . . . 78
2. West County Agricultural Area (WCAA) Excavations . . . 79
3. Type I (A) excavation . . . 80
4. Type I (B) excavation . . . 81
5. Type II Excavations . . . 82
6. Type III Excavations . . . 83
H. Variance From Construction Criteria For Type II, III, Agricultural, and WCAA Excavations. . . . 85
1. Granting of variance . . . 85
2. Variance request standards . . . 85
3. General . . . 86
4. Review Process . . . 86
I. Violations, Enforcement, and Penalties . . . 86
1. Violations . . . 86

2. Fines . . . 86
3. Restoration . . . 87
4. Review board . . . 87
5. Additional Sanctions . . . 87
J. Appeals . . . 87
1. Submittal . . . 87
2. Hearing . . . 87
3. Judicial Relief . . . 87

SEC. 7.7 DRIVEWAYS AND ACCESS . . . 88
A. Purpose and intent . . . 88
B. Driveways . . . 88
1. Spacing . . . 88
2. Construction . . . 88
C. Double frontage lots . . . 88
D. Exceptions . . . 88

SEC. 7.8 MISCELLANEOUS STANDARDS . . . 89
A. Performance Standards . . . 89
1. Purpose and intent . . . 89
2. Applicability . . . 89
3. Exemptions . . . 89
4. Noise . . . 89
5. Vibration . . . 91
6. Smoke, emissions and particulate matter . . . 91
7. Odors . . . 91
8. Toxic or noxious matter . . . 91
9. Radiation . . . 92
10. Electromagnetic radiation and interference . . . 92
11. Drainage . . . 92
B. Outdoor lighting standards . . . 92
1. Purpose and intent . . . 92
2. Applicability . . . 92
3. Outdoor lighting standards . . . 92
4. Prohibited lights . . . 93
5. Certification . . . 93
6. Measurement . . . 93
7. Effect on previous approvals . . . 93
C. Major intersection criteria . . . 93
1. Four lanes . . . 93
2. Five year road plan . . . 93
3. Traffic volume . . . 93
4. Right-of-way . . . 93
5. Upgrade agreement . . . 93

SEC. 7.10 RESERVED FOR FUTURE USE [Ord. No. 95-24; July 11, 1995].

SEC. 7.11 RESERVED FOR FUTURE USE [Ord. No. 95-24; July 11, 1995].

SEC. 7.12 RESERVED FOR FUTURE USE [Ord. No. 95-24; July 11, 1995].

SEC. 7.13 ARCHAEOLOGICAL RESOURCES PROTECTION 94
A. Purpose and intent 94
B. Applicability 94
C. Development subject to archaeological review 95
1. Parcels on identified sites 95
2. Parcels on previously unidentified sites 95
3. Sites containing human skeletal remains 95
D. Certificate to dig 96
1. Application 96
2. Report contents of a certificate to dig 96
3. Standards for issuance of a certificate to dig 96
E. Map of known archaeological sites 97
F. Appeals 97
G. Procedure for addressing violations, hearing and penalties 98

SEC. 7.14 SIGNAGE 98
A. Purpose and intent 98
B. Applicability 98
C. Effect on Previously Permitted Signs 98
1. General 98
2. Electronic Message Center Signs 99
3. Off-premises signs 99
D. Required signs and required procedure 99
1. Required signs 99
2. Application Procedure 99
E. Exemptions 99
F. Prohibited signs 100
G. Signs requiring a special permit from Zoning Division 102
1. Temporary signs announcing a campaign drive or civic event 102
2. Temporary sale sign 102
3. Temporary signs for grand openings 102
4. Temporary residential development signs 102
5. Temporary balloon type signs 102
H. Signs subject to special standards and requiring no permit 103
1. Temporary political sign 103
2. On-premises directional signage 103
3. Window signs 103
4. Vehicle signs 103
5. Real estate signs 103
6. Mobile vendor sign 104
I. On-site signs subject to special standards 104
1. Electrical sign 104
2. Entrance wall signage 104

3. Freestanding flagpole and flag size . . . 104
4. Directional signage internal to residential developments . . . 105
5. Directional signage internal to commercial developments . . . 105
6. Point of purchase signs . . . 105

J. Master sign plan . . . 111
K. Sign and Premises Maintenance . . . 112
L. Technical standards . . . 112
1. Construction generally . . . 112
2. General standards for all zoning districts . . . 112
M. Removal or alteration of certain signs . . . 112
N. Labels required on signs . . . 112
O. Persons responsible for compliance . . . 112
P. Administration and enforcement of this section . . . 113
1. Authority . . . 113
2. Building Codes Enforcement Administrative Code . . . 113
3. Removal of signs in violation of this section . . . 113
4. Other legal remedies . . . 114
Q. Off-premises signs . . . 114
1. Purpose and intent . . . 114
2. Types prohibited . . . 115
3. Permitted off-premises directional signs . . . 115
4. Freestanding structure required . . . 115
5. Prohibited in rights-of-way and easements . . . 115
6. Applicability of the other provisions . . . 115
7. Special inspection requirements . . . 116
8. Removal of illegal signs . . . 116
9. Nonconforming off-premises signs . . . 116
R. License . . . 118
1. Required . . . 118
2. Fee . . . 118
3. Expiration; renewal; license tags . . . 119

SEC 7.15 MAINTENANCE AND USE DOCUMENTS . . . 120
A. Purpose and Intent . . . 120
B. Applicability . . . 120
C. Exception . . . 120
D. General Requirements . . . 120
E. Documents Establishing Maintenance and Use . . . 120
1. Developments including a subdivision of five (5) or more lots . . . 120
2. Subdivisions of a maximum of four (4) lots . . . 120
3. Rental Projects . . . 121
F. Content Requirement for Documents . . . 121
1. Property Owner's Association Documents . . . 121

SEC. 7.17 HISTORIC PRESERVATION PROCEDURES . . . 124
A. Purpose and Intent . . . 124
B. Definitions. . . . 124

C. Criteria for Designation of Historic Sites and Districts 126
D. Application for Historic Site or District Designation 128
E. Public Hearings Required for Historic Site or District Designation 128
F. Development Standards For Historic Districts and Sites 129
G. Waiver of Unified Land Development Code Provisions 131
H. Palm Beach County Register of Historic Places 132
I. Certificate of Appropriateness 132
1. Activities Requiring Certificate of Appropriateness 132
2. Certificate not required 133
3. Review Guidelines 133
4. Demolition of Designated Historic Sites and Within Historic Districts 135
5. Criteria for Relocation of Historic Resources 137
6. Amendments to Designations 137
7. Undue Economic Hardship 137
8. Enforcement, Penalties 139

ARTICLE 7.

SITE DEVELOPMENT STANDARDS

SEC. 7.1 GENERAL.

A. **Purpose and intent.** The purpose and intent of this article is to provide site development standards for development in unincorporated Palm Beach County, to ensure adequate landscaping and protection of the natural environment, to encourage design consistency, to ensure uncongested roads, and to protect the health, safety and welfare of the citizens of Palm Beach County.

B. **Authority.** The Board of County Commissioners has the authority to adopt this article pursuant to Art VIII, Sec. 1, Fla. Const., the Palm Beach County Charter, Sec. 125.01 et. seq., Fla Stat., and Sec. 163.3161 et. seq., Fla Stat.

SEC. 7.2 OFF-STREET PARKING AND LOADING.

A. **Purpose and intent.** The purpose and intent of this section is to ensure the provision of off-street parking, loading, queuing and on-site circulation facilities in proportion to the demand created by each use. By requiring such facilities, it is the intent of this section to ensure the provision of functionally-adequate, aesthetically-pleasing and safe off-street parking, loading, queuing and circulation areas.

B. **Applicability.** The standards of this section shall apply to all development in unincorporated Palm Beach County, or existing development that is modified to the extent that it includes uses or site design features that were not specifically shown on the previously approved plans. All off-street parking areas established by this section shall be continuously maintained according to the standards of this section.

1. **New buildings.** Off-street parking and loading facilities shall be provided for any new building constructed and for any new use established.

2. **Additions and enlargements.** Off-street parking and loading facilities shall be provided for any addition to or enlargement of an existing building or use, or any change of occupancy or manner of operation that would result in additional parking and loading spaces being required. The additional parking and loading spaces shall be required only in proportionate amount to the extent of the addition, enlargement, or change, not for the entire building or use.

3. **Off-street parking and loading schedule.** Off-street parking and loading spaces shall be provided in accordance with the following schedule of standards in Table 7.2-1: Minimum Off-Street Parking and Loading Standards.

TABLE 7.2-1
MINIMUM OFF-STREET PARKING AND LOADING STANDARDS

Use	Parking	Loading Sec. 7.2.D
Residential Uses		
Single-family; duplex; patio home; townhouse cluster; mobile home	2 spaces per unit	N/A
Multi-family (excluding duplex)	1.25 spaces per efficiency unit; 1.75 spaces per one-or two-bedroom unit; 2 spaces per three-bedroom or larger unit, plus 0.25 guest parking spaces per unit for all dwelling units with common parking areas Multi-family (non-retirement) uses providing fifty or more spaces in a common parking area shall provide bicycle parking racks.	N/A
Congregate living facilities, Type 1	2 spaces	N/A
Congregate living facilities, Types 2-3	1 space per four (4) residents, plus 1 space per employee	N/A
Public and Civic Uses		
Airports, landing strips and heliports	1 space per tie-down and hangar space, minimum 5 spaces (None required for heliport or landing strip accessory to residential or agricultural use)	C
Athletic field	1 per space four (4) bleacher seats or 30 spaces per field, whichever is greater	N/A
Church or place of worship (excluding convent, rectory or retreat house)	1 space per three (3) seats (schools and gyms calculated separately)	N/A
College or university	1 space per two (2) students 1 space per four (4) seats in gymnasiums and auditoriums 1 space per 300 square feet of administrative and educational office space	C
Convent or cloister	2 spaces, plus 1 space per ten (10) residents	N/A
Day care center Less than 100 capacity 100 or more capacity	 5 transient spaces, plus 1 space per employee 10 transient spaces, plus 1 space per employee[1]	N/A

[1] Such facilities shall provide clear ingress and egress. A convenient passenger drop-off area located adjacent to the building and out of the primary travel lanes may be substituted for two (2) of the transient spaces in either type of day care center.

TABLE 7.2-1
MINIMUM OFF-STREET PARKING AND LOADING STANDARDS

Use	Parking	Loading Sec. 7.2.D
Government services (except library)	1 space per three (3) seats of public assembly room, plus 1 space per employee[2]; may require bicycle rack if determined appropriate by DRC	N/A
Hospital or medical center	1.5 spaces per 2 beds, plus 1 space per employee	C
Library	1 space per 400 square feet, plus 1 space per employee	N/A
Nursing or convalescent facility	1 space per four (4) beds, plus 1 space per employee; may require bicycle rack if determined appropriate by DRC	D
Rectory	1 space per clergy, plus 1 space per employee	N/A
Retreat house	1 space per three (3) beds, plus 1 space per employee	N/A
School, elementary	1 space per classroom, plus 1 space per employee; may require bicycle rack if determined appropriate by DRC	C
School, secondary	0.25 per student, plus 1 per employee may require bicycle rack if determined appropriate by DRC	C
Commercial Uses		
Amusements, temporary	1 space per four (4) seats, or 10 spaces per acre occupied by amusements, or 50 spaces, whichever is greater	N/A
Appliance sales	1 space per 200 square feet	B
Auction, enclosed	1 space per 200 square feet	C
Auction, open and vehicular	1 space per 250 square feet	N/A
Automotive paint or body shop	1 space per 250 square feet[3]	N/A
Automotive service station	1 space 250 square feet, excluding bays, plus 2 spaces per repair bay[4]	N/A

[2] If service is a direct service provider and is frequented on a daily basis by the general public, then one (1) space per two hundred (200) square feet of customer service space shall be provided.

[3] Stored vehicles shall not visible from off-site. A solid, opaque fence, wall or vegetative screen, with a minimum height of six (6) feet may be used to screen the vehicles from view.

[4] If a convenience store containing more than 1,500 square feet is associated with the service station, then one-half (0.50) of the required spaces shall be located adjacent to the store. In all cases, required handicapped spaces shall be located adjacent to the store.

TABLE 7.2-1
MINIMUM OFF-STREET PARKING AND LOADING STANDARDS

Use	Parking	Loading Sec. 7.2.D
Bakeries, commercial preparation	1 space per 10,000 square feet, plus 1 space per employee	C
Bakeries, retail	1 space per 200 square feet	N/A
Boatyard	1 space per wet slip, plus 1 space per three (3) dry storage compartments, plus 1 space per employee	N/A
Bowling alley	2 space per lane, plus 1 space per 250 square feet of nonbowling recreation area	C
Building supplies	1 space per 200 square feet	B
Camp	1 space per campsite, plus 1 space per employee or counselor	C
Car wash (principal use)	1 space per 250 square feet	N/A
Chemical sales	1 space per 250 square feet	C
Confectionery, commercial preparation	1 space per 10,000 square feet, plus 1 per employee	A
Convenience store	1 space per 200 square feet; may require bicycle rack if determined appropriate by DRC	C
Dairy processing	1 space per 10,000 square feet, plus 1 space per employee	A
Dry cleaning and laundry plant	1 space per 10,000 square feet, plus 1 space per employee	B
Entertainment, indoor (except bowling alleys)	1 space per 250 square feet	C
Entertainment, outdoor	10 spaces per acre	N/A
Financial institution	1 space per 200 square feet	N/A
Flea market, enclosed	1 space per 200 square feet	C
Flea market, open	1 space per 250 square feet	N/A
Funeral home	1 space per four (4) person seating capacity	C
Furniture or carpet sales	1 space per 200 square feet, plus 1 space per 750 square feet of indoor storage space	B
Garden center	5 spaces per 1000 square feet	B
Gas and fuel, wholesale	1 space per 250 square feet	N/A
Golf course	4 spaces per hole	N/A
Greenhouse or nursery	1 space per 10,000 square feet, plus 1 space employee	B

TABLE 7.2-1
MINIMUM OFF-STREET PARKING AND LOADING STANDARDS

Use	Parking	Loading Sec. 7.2.D
Hardware, paint and garden supplies	1 space per 200 square feet	C
Hotel or motel	1 space per guest room, plus 1 space per employee	C
Hotel, single room occupancy (SRO), motel, boarding, rooming house	1 space per three (3) guest rooms	N/A
Kennel, commercial	1 space per 300 square feet of cage and retail area	N/A
Laundry service	1 space per 200 square feet	N/A
Lounge	1 space per two (2) occupant capacity	C
Lumberyard	1 space per 250 square feet	B
Machinery sales, retail	1 space per 250 square feet	B
Marina	1.5 spaces per wet slip, plus 1 space per three (3) dry storage compartment	N/A
Meat cutting	1 space per 250 square feet	N/A
Medical or dental clinic	1 space per 200 square feet	C
Medical or dental laboratory	1 space per 200 square feet	C
Monument sales, retail	1 space per 250 square feet	N/A
Motorcycle or moto-cross track	20 spaces per facility, plus 1 space per four seats if facility is intended for spectator events.	N/A
Moving and storage	1 space per 10,000 square feet, plus 1 space per employee	A
Museum or art gallery	1 space per 250 square feet, plus 1 space per employee	C
Newsstand	1 space per 200 square feet	N/A
Office, business or professional	1 space per 200 square feet; may require bicycle rack if determined appropriate by DRC	N/A
Personal services	1 space per 200 square feet	N/A
Pharmacy	1 space per 200 square feet	C
Precision instruments	1 space per 250 square feet	C
Printing and copying services	1 space per 250 square feet	C
Utility, public or private	1 space per 10,000 square feet, plus 1 space per employee	N/A
Racetracks, auto, dog and horse	1 space per four (4) seats	C
Repair services	1 space per 250 square feet	N/A

TABLE 7.2-1
MINIMUM OFF-STREET PARKING AND LOADING STANDARDS

Use	Parking	Loading Sec. 7.2.D
Restaurant, fast food	1 space per three (3) seats, plus queuing per Sec. 7.2.C.14	C
Restaurant, general and specialty	1 space per 80 square feet, including outdoor seating area	C
Restaurant, take-out	1 space per each employee, plus queuing per Sec. 7.2.C.14	C
Retail sales, general	1 space per 200 square feet; retail uses in CN district shall provide bicycle parking	C
Retail sales, bulky goods	1 space per 200 square feet, plus 1 space per 750 square feet of indoor storage space	B
Retail sales, mobile or temporary-enclosed	1 space per four (4) seats	N/A
Retail sales, mobile or temporary-open	50 spaces or 10 spaces per acre, whichever is greater	N/A
Salvage yard	1 space per 10,000 square feet, plus 1 space per employee	C
Security or caretakers quarters	2 spaces	N/A
Self-service storage facility; Multi-access	1 space per 200 storage bays, plus 1 space per employee and 2 customer spaces	N/A
Self-service storage facility; Limited access	1 space per 75 storage bays plus 1 space per employee and two customer spaces	N/A
Shopping centers, community and regional	1 space per 200 square feet of gross leasable floor area (GLFA)	B
Stable, commercial	1 space per 300 square feet within stable, plus 1 space per three (3) animal stalls	N/A
Swimming pool	1 space per 50 square feet of pool area; those open to the public shall provide bicycle parking racks	N/A
Tennis courts	1.5 spaces per court; those open to the public shall provide bicycle parking racks	N/A
Theaters, auditoriums and public assembly	1 space per three (3) seats, plus 1 space per employee	N/A
Upholstery shop	1 space per 250 square feet	N/A
Vehicle sales and rental	1 space per 500 square feet of enclosed area, plus 1 space per 4,500 square feet of outdoor sales, rental and display area, plus 1 space per service bay, plus 1 space per employee	A
Veterinary office	1 space per 200 square feet, excluding animal exercise areas	N/A

TABLE 7.2-1
MINIMUM OFF-STREET PARKING AND LOADING STANDARDS

Use	Parking	Loading Sec. 7.2.D
Woodworking or cabinetmaking	1 space per 250 square feet	C
Yacht club	1.5 spaces per wet slip, plus 1 space per three (3) dry storage compartment, plus separately-calculated parking for other associated uses	N/A
Agricultural Uses		
Agricultural use, accessory	5 spaces or 1 space per employee, whichever is greater (no spaces required for accessory storage buildings and barns)	N/A
Agricultural research and development	10 spaces or 1 space per employee, whichever is greater	B
Farming, general	N/A	N/A
Migrant farm labor quarters	0.5 space per dwelling unit	N/A
Industrial Uses		
Basic industry and manufacturing and processing	1 space 1,000 square feet, plus 1 space per employee	A
Warehouse	1 space per 2,000 square feet, plus 1 space per employee	A

Loading space ratios from Sec. 7.2.D. Off-street loading spaces shall be provided in accordance with the standards of the off-street parking and loading schedule in Table 7.2-1. The letters shown in the "loading" column of the schedule shall correspond to the following ratios:

a. **Standard "A".** One (1) space for the first five thousand (5,000) square feet of floor area, plus one (1) space for each additional thirty thousand (30,000) square feet of floor area;

b. **Standard "B".** One (1) space for the first ten thousand (10,000) square feet of gross floor area, plus one (1) space for each additional fifteen thousand (15,000) square feet of floor area;

c. **Standard "C".** One (1) space for the first ten thousand (10,000) square feet of gross floor area, plus one (1) space for each additional one hundred thousand (100,000) square feet of floor area; and

d. **Standard "D".** One (1) space for each fifty (50) beds for all facilities containing twenty (20) or more beds.

[Ord. No. 93-4] [Ord. No. 95-24]

C. Off-street parking.

1. Computing parking standards.

a. Multiple uses. On lots containing more than one (1) use, the total number of required off-street parking spaces shall be equal to the sum of the required parking for each use as if provided separately, unless a shared parking arrangement is approved pursuant to Sec. 7.2.C.8 (Shared parking).

b. Fractions. When calculation of the number of required off-street parking spaces results in a fractional number, a fraction of less than one-half (0.50) shall be disregarded and a fraction of one-half (0.50) or more shall be rounded to the next highest whole number.

c. Floor area. Off-street parking standards that are based on square footage shall be computed using gross floor area (GFA), unless another measurement is specifically called for in this section.

d. Employees or occupants. When the calculation of required parking spaces is based on the number of employees or persons, the calculation shall be based on the maximum number of employees or persons on duty or legally residing on the premises at any one (1) time.

e. Bench seating. When the calculation of required parking spaces is based on the number of seats, each twenty-two (22) linear inches of bench, pew, or similar bench seating facility shall be considered one (1) seat.

f. Gross lot area. When the calculation of required parking spaces is based on gross lot area, the amount of lot area dedicated to off-street parking shall not be included in the calculation.

g. Unlisted land uses. In the event that off-street parking standards for a particular use are not listed in this section, the standards for the most similar use shall be applied. In making the determination, any evidence of actual parking demand for similar uses shall be considered as well as other reliable traffic engineering and planning information that is available.

h. Delayed computations. The determination of the number of required off-street parking spaces may be delayed until the submission of an application for development permit for a building permit in the following instances:

(1) Where the formula for calculating the number of parking spaces consists of two (2) or more different rates, and there is uncertainty about how some of the floor or lot area shall be used; or

(2) When it is unknown which portions of a structure are to be deleted from gross floor area to calculate gross leasable floor area.

2. Location of required parking. Except as provided in Sec. 7.2.C.8 (Shared parking), Sec. 7.2.C.9 (Off-site parking) and Sec. 7.2.C.11 (Valet parking), all required off-street parking, except for fee simple developments with common parking lots, shall be provided upon the same lot as the principal use. The location of required off-street parking spaces shall not interfere with normal traffic flow or with the operation of queuing and backup areas. Loading areas shall not obstruct pedestrian pathways.

a. **Distance from building or use.** Unless otherwise provided in this section, no on-site parking space shall be located more than six hundred (600) feet from the building or use it is intended to serve. This standard shall not apply to parking spaces provided for auditoriums, stadiums, assembly halls, gymnasiums, and other places of assembly, nor shall it apply to hospitals, large-scale retail, wholesale, and consumer service uses of over five hundred thousand (500,000) square feet or industrial, wholesaling or manufacturing establishments.

b. **Buffers and rights-of-way.** There shall be no parking or storing of vehicles in the landscape buffer or the existing or ultimate right-of-way of an abutting street.

c. **Sidewalk access for rear parking.** There shall be no parking of automobiles at the rear of a structure unless a public pedestrian walk connects it to the front of the structure or there exists an entrance or store in the rear. Such pedestrian accessway shall be a minimum of four (4) feet in width, clearly marked, well lighted and unobstructed.

d. **Garages and carports.** Space within a carport or garage may be used to satisfy residential off-street parking standards, provided that no building permit shall be issued to convert a carport or garage to a living area without provision of required off-street parking spaces in the driveway or in a common parking lot.

3. **Use of required off-street parking areas.** Off-street parking spaces shall be provided for the use of residents, customers, patrons and employees. Required parking spaces shall specifically not be used for the storage, sale or display of goods or materials or for the sale, repair, or servicing of vehicles. All vehicles parked within off-street parking areas shall must be registered and capable of moving under their own power. Required parking areas shall not be used by delivery vehicles. Required off-street parking spaces shall be free from building encroachments, except that a portion of the required parking area may be used for the following purposes:

   a. **Temporary events.** Required off-street parking areas may be used on a temporary basis pursuant to a special use issued by the Zoning Director for the outdoor sales of goods, fairs, and other temporary events; or

   b. **Recyclable materials collection bins.** Required off-street parking areas may be occupied by recyclable materials collection bins that have been approved as a special use in the CC or CG districts or a PUD commercial pod. The bin shall retain its mobility and shall not occupy more than five (5) percent of the total on-site parking spaces. The bin and adjacent area shall be maintained in good appearance, free from trash.

4. **Parking fees.** Except as provided in Sec. 7.C.11 (Valet parking) and Sec. 7.C.15 (Public, private or commercial lots), a fee or other form of compensation shall not be charged for the use of required off-street parking spaces. Fees may be charged for the use of parking spaces that have been provided in excess of minimum standards.

5. **Motorcycle parking.** For any nonresidential use providing fifty (50) or more spaces, a maximum of three (3) required off-street parking spaces may be reduced in size and redesigned to accommodate parking of motorcycles. When provided, motorcycle parking shall be identified by a sign.

6. **Handicapped parking.** The provision of handicapped parking spaces and passenger loading zones shall be governed by Secs. 316.1955, 316.1956, and 553.48, Fla. Stat. These sections shall govern the signage, identification and reservation of spaces for the handicapped. All required signs shall include the language, "$250 fine for violators." All handicapped parking spaces shall be paved. The handicapped parking regulations required by Florida Statutes are available at the Publications Office of the PZB Department. A portion of the minimum number of required off-street parking spaces may be used to satisfy the handicapped parking space standards. The minimum number of handicapped parking spaces shall comply with the following table:

TABLE 7.2-2
HANDICAPPED PARKING SPACES AND PASSENGER LOADING ZONES

Total Spaces or Zones	Required Number to be Reserved for Handicapped
up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of Total
over 1000	20 Plus 1 For Each 100 Over 1000

7. **Guest parking.** Guest parking spaces, where required, may be grouped, provided that the spaces are located within three hundred (300) feet of the dwellings that they are intended to serve. Guest parking may be grassed, as provided in Sec. 7.C.10 (grassed parking), except that no permit is required. Each space shall be provided with wheelstops, except for grassed guest parking, which is designed as parallel parking. All guest parking shall be prominently identified with an above-grade sign or marking on the wheelstop.

8. **Shared parking.** The Development Review Committee may authorize a reduction in the number of required parking spaces for multiple use developments or for uses that are located near one another and which have different peak parking demands and operating hours. Shared parking shall be subject to the following standards:

   a. **Application.** In addition to the application for development permit for Site Plan/Plat, the applicant shall submit that additional application information for shared parking required by the Zoning Director and made available to the public;

b. **Location.** All uses which participate in a single shared parking plan shall be located on the same lot or on contiguous lots. The shared parking lot shall be developed and used as though the uses on the lots were a single unit;

c. **Shared parking study.** A Shared parking study acceptable to the Zoning Director shall be submitted which clearly establishes that uses will use the shared spaces at different times of the day, week, month or year. The study shall:

(1) Be based on the Urban Land Institute's methodology for determining shared parking or other generally accepted methodology;
(2) Address the size and type of activities, the composition of tenants, the rate of turnover for proposed shared spaces, and the anticipated peak parking and traffic loads;
(3) Provide for reduction of paved area by not more than fifty (50) percent of the combined parking required for each use under Sec. 7.B.3, and 7.2.D (Off-street parking and loading schedule);
(4) Provide for no reduction in the number of required handicapped spaces;
(5) Provide a plan to convert the open space reserved pursuant to Sec. 7.B.3.8.d, 7.2.C.8.d (Reservation of extra space), to parking area; and
(6) Be approved by the County Engineer prior to submittal, based on the feasibility of the uses to shared parking due to their particular peak parking and trip generation characteristics.

d. **Reservation of extra space.** Enough land area shall be reserved on the site of a shared parking lot to provide for the combined total parking standards of each use, or an alternate plan showing adequate area to accommodate any needed extra parking shall be provided. A reserved area shall not be used for on-site retention of storm-water runoff nor shall it be used to satisfy the landscaping and buffering standards of this section. Preservation areas designated and protected by any government shall not be used to satisfy the reserve standard. The reserved area shall be landscaped and maintained to present an orderly appearance.

e. **Agreement for shared parking plan.** A shared parking plan shall be enforced through written agreement or through unity of control. An attested copy of the agreement between the owner of record and Palm Beach County shall be submitted to the Zoning Director who shall forward a copy to the County Attorney for review. The agreement shall be recorded in the deed records of Palm Beach County by the owner of record prior to issuance of a certificate of occupancy. Proof of recordation of the agreement shall be presented to the Zoning Director prior to certification by the Development Review Committee. The agreement shall:

(1) List the names and ownership interest of all parties to the agreement and contain the signatures of those parties;
(2) Provide a legal description of the land;
(3) Include a site plan showing the area of the parking parcel and open space reserved area which would provide for future parking;
(4) Describe the area of the parking parcel and designate and reserve it for shared parking unencumbered by any conditions which would interfere with its use;
(5) Agree and expressly declare the intent for the covenant to run with the land and bind all parties and all successors in interest to the covenant;
(6) Assure the continued availability of the spaces for joint use and provide assurance that all spaces will be usable without charge to all participating uses;

(7) Describe the obligations of each party, including the maintenance responsibility to retain and develop reserved open space for additional parking spaces if the need arises;
(8) Incorporate the shared parking study by reference;
(9) Be made part of the Site Plan/Final Subdivision Plan; and
(10) Describe the method by which the covenant shall, if necessary, be revised.

f. **Change in use.** Should any of the shared parking uses be changed, or should the Zoning Director find that any of the conditions described in the approved shared parking study or agreement no longer exist, the owner of record shall have the option of submitting a revised shared parking study in accordance with the standards of this section or of providing the number of spaces required for each use as if computed separately.

9. **Off-site parking.** Required off-street parking spaces shall be on the same lot as the use it is intended to serve, provided that the Development Review Committee may permit all or a portion of the required parking spaces to be located on a remote and separate lot from the lot on which the principal use is located. Off-site parking shall be subject to the following standards:

a. **Necessity.** The applicant shall demonstrate that it is not feasible to locate all of the required parking on the same lot as the principal use;

b. **Ineligible activities.** Off-site parking shall not be used to satisfy the off-street parking standards for restaurants, lounges, convenience stores and other convenience-oriented uses. Required handicapped parking spaces shall not be located in an off-site parking facility;

c. **Location.** No off-site parking space shall be located more than six hundred (600) feet from the primary entrance of the use served, measured along the route of the shortest legal, practical walking distance. Off-site parking spaces shall not be separated from the principal use by a street right-of-way with a width of more than eighty (80) feet;

d. **Official Zoning Map Classification.** Off-site parking areas shall require the same or a more intensive Official Zoning Map classification than that required for the use served;

e. **Agreement for off-site parking.** In the event that an off-site parking area is not under the same ownership as the principal use served, a written agreement or unity of control shall be required. An attested copy of the agreement among the owners of record shall be submitted to the Zoning Director who shall forward a copy to the County Attorney for review. The agreement shall be filed in the deed records of the County by the owner of record. Proof of recordation of the agreement shall be presented to the Zoning Director. The agreement shall:

(1) List the names and ownership interest of all parties to the agreement and contain the signatures of those parties;
(2) Provide a legal description of the land;
(3) Include a site plan showing the area of the use and parking parcel;
(4) Expressly declare the intent for the covenant to run with the land and bind all parties and all successors in interest to the covenant;
(5) Assure the continued availability of the spaces and provide assurance that all spaces will be usable without charge;
(6) Describe the obligations of each party, including the maintenance responsibility;

(7) Require that the Zoning Director be notified prior to the expiration or termination of an off-site parking area lease agreement;
(8) Be made part of the Site Plan/Final Subdivision Plan; and
(9) Describe the method by which the covenant shall, if necessary, be revised.

f. **Signs.** One (1) sign shall be located at the off-site parking facility indicating the use that it serves, and one (1) sign shall be located on the site of the use served, indicating the location of the off-site parking facility.

10. **Grassed parking.** Grassed parking shall be permitted if approved by the Development Review Committee, pursuant to the following procedures and standards:

a. **Application.** In addition to the application for development permit for Site Plan/Final Subdivision Plan, the applicant shall submit the following:

(1) A written statement of and a site plan showing the area proposed for grassed parking and the proposed method of traffic control to direct vehicular flow and parking;
(2) A written statement that the parking area proposed for grassed parking shall be used for parking on an average of no more than two (2) days or nights each week. This information shall contain the proposed hours and days of the expected use of the grassed parking and the expected average daily traffic and peak hour traffic counts, as calculated by a professional engineer qualified to perform such studies;
(3) Description of the method to ensure that the grassed parking surface will be maintained in its entirety with a viable turf cover;
(4) A conceptual drainage plan for the entire parking area; and
(5) A description of the soil type of the area proposed for grassed parking.

b. **Standards.** The following standards shall apply to grassed parking:

(1) Only parking spaces provided for peak demand may be approved as grassed parking. Paved parking shall be provided for average daily traffic, including weekday employees and visitors;
(2) A grassed parking area shall not include any existing or proposed landscaped area, surface water management area or easement other than a utility easement;
(3) Handicapped parking shall not be located within a grassed parking area;
(4) Grassed parking areas shall meet minimum landscaping requirements of Sec. 7.E....(d), E....(d) (Interior of vehicular use areas). No grassed parking area shall be counted toward meeting the minimum landscape or open space standards; and
(5) Within grassed parking areas, all access aisles shall either: (a) be paved and meet the same substructural and surface standards as for paved asphaltic parking surfaces; or (b) be surfaced with paver block, or other semi-pervious coverage approved by the Zoning Director.

c. **Permit.** If at any time prior to the approved expiration date of the development order for Site Plan/Final Subdivision Plan, it is determined that a grassed parking area does not meet the standards established in this section, the Zoning Director shall require the restoration of the grassed surface or the paving of the grass for parking.

d. **Regulatory treatment of grassed parking areas.** All surface parking areas, grassed or otherwise, shall be considered impervious paved surface for the purpose of determining tertiary drainage system flow capacity and secondary stormwater management system runoff treatment/control requirements.

11. **Valet parking.** Valet parking may be used upon any lot to satisfy off-street parking standards. The design of valet parking shall not cause customers who do not use the valet service to park off-premise or in the right-of-way or cause queuing in the right-of-way. The following additional standards shall apply to valet parking arrangements.

a. **Maximum number of reserved spaces.** Up to fifty (50) percent of the required off-street parking spaces may be reserved for valet parking.

b. **Location of reserved spaces.** Off-street parking spaces reserved for valet parking may be located anywhere on-site, except that handicapped parking spaces shall be the spaces located closest to the nearest accessible entrance of the building that the parking spaces are intended to serve.

12. **Parking area design and construction standards.**

a. **Dimensions and geometrics.** The dimensions and geometrics of off-street parking areas shall conform to the following minimum standards:

(1) **Residential.**

(a) **Without common parking lot.** Each parking space for dwelling units that do not share a common parking lot shall be a minimum of eight (8) feet wide and twenty (20) feet long. Parking spaces may be side to side, end to end or not contiguous to each other.

(b) **With common parking lots.** For dwelling units that share a common parking lot, parking spaces and aisles shall be subject to the "general" dimensional standards of Table 7.2-3

(2) **Nonresidential.** All nonresidential uses and residential uses with shared parking lots shall provide parking spaces that comply with the dimensional requirements of standards of Table 7.2-3 and Figure 7.2-1. If proposed parking angles are not illustrated in Table 7.2-3 or Figure 7.2-1, dimensions shall be interpolated from the tables and approved by the Zoning Director. For the purpose of interpreting the "Use" column of Table 7.2-3 the following rules shall apply:

(a) **General.** The term "general" applies to parking spaces designated to serve all commercial uses, except retail uses, and also residential uses with shared parking lots. Spaces reserved for use by disabled persons shall be governed by the rows labelled "handicapped";

(b) **Retail uses.** All retail uses shall provide parking spaces that have minimum widths of nine and one-half (9.5) feet. Other required dimensions of the space shall be governed by Table 7.2-3;

(c) **Handicapped parking.** All spaces marked and reserved for use by persons with disabilities shall be installed in accordance with the standards of Secs. 316.1955, 316.1956 and 553.48, Fla. Stat.; and

(d) **Queuing distance.** A minimum queuing distance of twenty (20) feet is required between the property line and the first parking space.

(3) **Parallel parking.** Parallel parking spaces shall have minimum lengths of twenty-three (23) feet and minimum widths of ten (10) feet (see Figure 7.2-2).

(4) **Measuring parking space width.** Where double striping is used to mark spaces, parking space width shall be measured from the centerline of one (1) set of stripes to the centerline of the corresponding set of stripes.

TABLE 7.2-3
MINIMUM PARKING BAY DIMENSIONS FOR
NONRESIDENTIAL USES AND RESIDENTIAL USES WITH SHARED PARKING LOTS

A Angle	B Space Width (feet)	C Space Depth (feet)	D Aisle Width (feet)	E Curb Length (feet)	F Wall-to-Wall Width (feet)	G Interlock-to-Interlock Width (feet)	H Space Depth to Interlock (feet)	Land Use*
45	9.0	17.5	12.0	12.5	47.0	43.0	15.5	General
	9.5	17.5	12.0	13.5	47.0	43.0	15.5	Retail
	12.0	17.5	12.0	17.0	47.0	43.0	15.5	Handicapped
60	9.0	19.0	16.0	10.5	55.0	51.0	17.5	General
	9.5	19.0	15.0	11.0	54.0	50.0	17.5	Retail
	12.0	19.0	14.0	14.0	53.0	49.0	17.5	Handicapped
70	9.0	19.5	19.0	9.5	58.0	56.0	18.5	General
	9.5	19.5	18.0	10.0	57.0	55.0	18.5	Retail
	12.0	19.5	17.0	12.5	56.0	54.0	18.5	Handicapped
75	9.0	19.5	23.0	9.5	62.0	60.0	18.5	General
	9.5	19.5	22.0	10.0	61.0	59.0	18.5	Retail
	12.0	19.5	21.0	12.5	60.0	58.0	18.5	Handicapped
80	9.0	19.5	24.0	9.0	63.0	62.0	19.0	General
	9.5	19.5	23.0	9.5	62.0	61.0	19.0	Retail
	12.0	19.5	22.0	12.0	61.0	60.0	19.0	Handicapped
90	9.0	18.5	26.0	9.0	63.0	63.0	18.5	General
	9.5	18.5	25.0	9.5	62.0	62.0	18.5	Retail
	12.0	18.5	24.0	12.0	61.0	61.0	18.5	Handicapped

1. Dimensional requirements for parking spaces shall vary depending on the angle of parking provided and the land use served.

2. The term "General" applies to parking spaces designated to serve all commercial uses, except retail uses, and also residential uses with shared parking lots. Spaces reserved for use by persons with disabilities shall be governed by the rows labelled "Handicapped". The "unspecified" row provides a guideline for the design of spaces above the minimum required width.

FIGURE 7.2-1:
PARKING SPACE SCHEMATIC

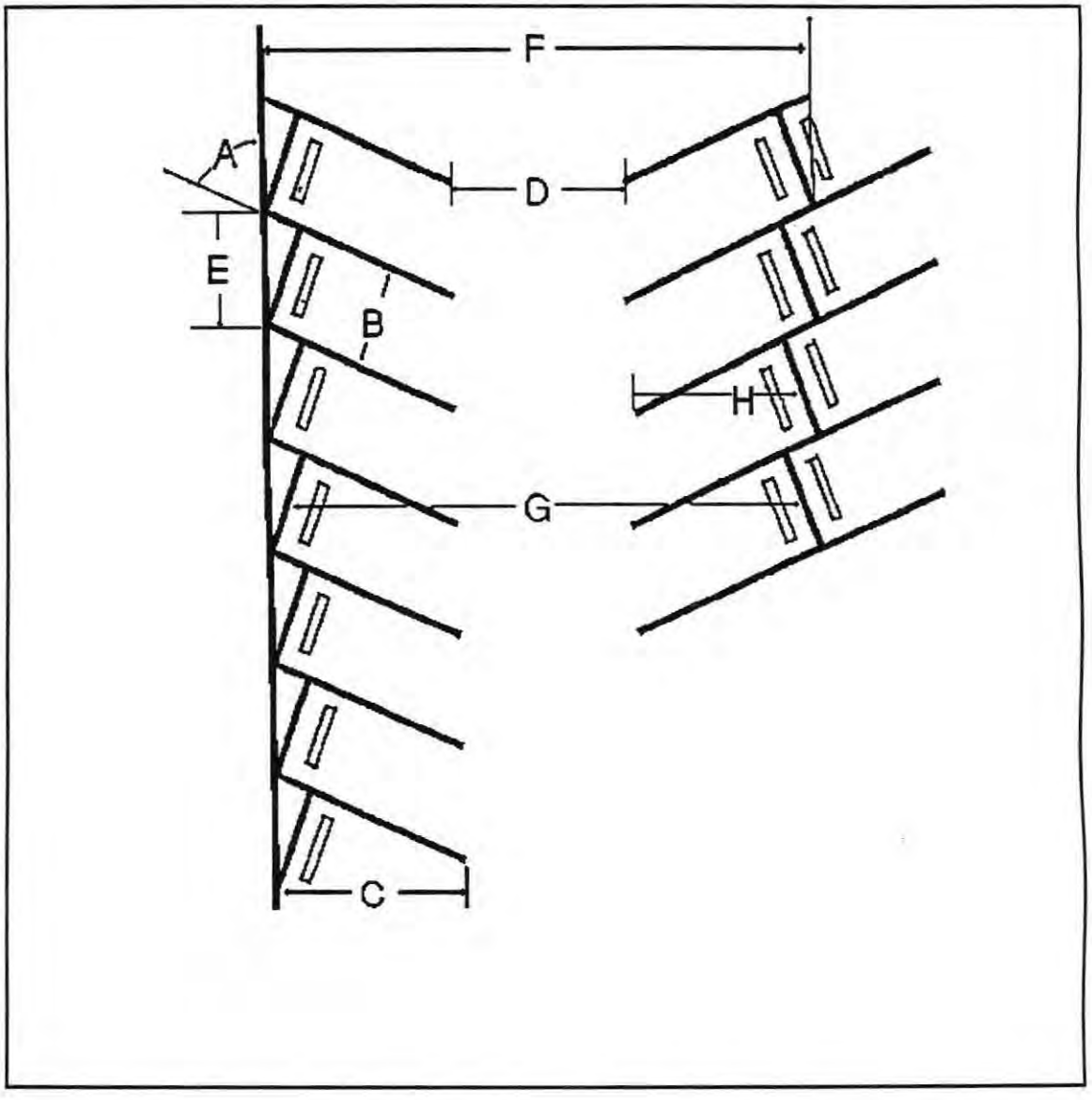
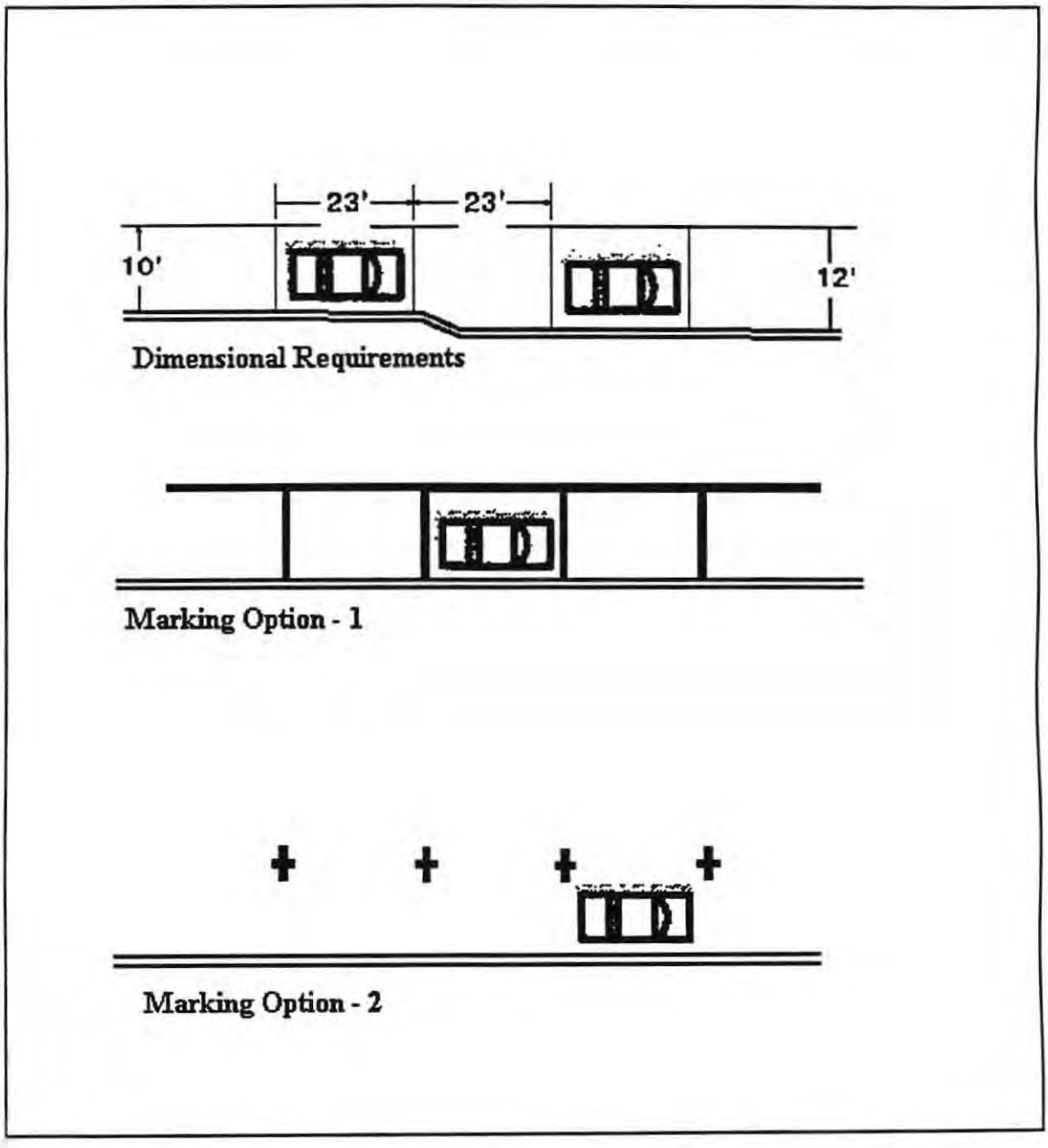


FIGURE 7.2-2:
PARALLEL PARKING DIMENSIONAL STANDARD AND MARKING OPTION



b. Construction and design of parking area.

(1) General on-site circulation standards.

(a) There shall be safe, adequate, and convenient arrangement of pedestrian pathways, bikeways, roads, driveways, and off-street parking and loading spaces within parking areas.

(b) Streets, pedestrian walks, parking areas, and open space shall be designed as integral parts of an overall site design which shall be properly related to existing and proposed buildings, adjacent uses and landscaped areas.

(c) The materials used in the design of paving, lighting fixtures, retaining walls, fences, curbs and benches shall be of good appearance, easily maintained and indicative of their function.

(d) Parking lots shall be maintained in a safe operating condition and manner as to not create a hazard or nuisance.

(2) Pedestrian circulation.

(a) Structures, vehicular circulation lanes, parking spaces, driveways, and open spaces shall be designed to provide logical, impediment free pedestrian movement. The site shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.

(b) Paved, landscaped or comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas, and adjacent buildings.

(c) Where off-street parking spaces directly face a structure, and are not separated by an access aisle from the structure, a paved pedestrian walkway shall be provided between the front of the parking space and the structure. The walkway shall be a minimum of four (4) feet wide, exclusive of vehicle overhang, and shall be separated from the parking space by concrete wheel stops or continuous curbing. Residential vehicular use areas are exempt from this standard.

(3) Paving and drainage design.

(a) Review and approval by County Engineer. The drainage design shall be reviewed by the County Engineer, and no permit shall be issued until the drainage design is approved by the County Engineer.

(b) Materials. Unless otherwise provided in this section, all vehicular use areas and specialized vehicular use areas shall be improved either with: (a) a minimum of a six (6) inch shellrock or limerock base with a one (1) inch hotplant mix asphaltic concrete surface; or (b) a base and surface material of equivalent durability, as certified by the developer's engineer. Responsibility for pavement failure occurring as a result of inadequate alternative base and surface material design shall fall on the certifying engineer.

(4) Maintenance of paved vehicular use areas. All vehicular use areas or specialized vehicular use areas shall be maintained in good condition to prevent any hazards, such as cracked asphalt or potholes.

(a) Shell rock. The uses and associated features listed below may construct surface parking lots with shellrock or other similar material except for parking areas connected to a public street, such areas shall be paved.

i) Agricultural uses with less than twenty (20) spaces.

ii) Communication towers in the agricultural districts.

iii) Camps in the agricultural districts.

iv) Greenhouses and nurseries in the agricultural districts.

v) Driveways in the Rural Residential District serving residential uses on unpaved roads.

vi) Other similar uses when approved by the Development Review Committee.

(b) **Wheelstops or curbing required.** Wheel stops or continuous curbing shall be placed two and one-half (2.5) feet back from walls, poles, structures, pedestrian walkways or landscaped areas. The area between any wheel stop and required landscaped strip may be landscaped, rendering the paved space area fifteen (15) to sixteen (16) feet in length, depending on the angle of parking provided.

(5) **Lighting.** If a vehicular use area, or a specialized vehicular use area is to be open for use after dark, it shall be lighted. Lighting shall be arranged and designed so that no source of light is directed toward any adjoining or nearby land used or classified for residential use. Lighting shall be designed to shield public streets and all other adjacent lands from direct or distracting glare, or hazardous interference of any kind. Vehicular use areas shall not be lighted at any other time than the hours of operation of the use that the parking is intended to serve, except for necessary security lighting. Parking lot lighting shall comply with the outdoor lighting standards of Sec. 7.8.B (Outdoor lighting standards).

(6) **Marking.** Except for parallel parking spaces, parking lots containing spaces for three (3) or more vehicles shall delineate each space by double stripes on each side of the space. All stripes shall be painted in white paint except for handicapped spaces which shall have blue stripes. The width of the painted stripe shall be four (4) inches. The separation from inside edge of stripe to inside edge of stripe shall be no less than eight (8) inches and no more than sixteen (16) inches. The effective width of the double stripes shall range from sixteen (16) inches to twenty-four (24) inches, measured from outside edge of stripe to outside edge of stripe. (See Figure 7.2-3 for an example). Marking of parallel parking spaces shall be as shown in either of the options in Figure 7.2-2.

(7) **Signs.** Traffic control signs and other pavement markings shall be installed and maintained as necessary to insure safe and efficient traffic operation of all vehicular use areas. Such signage and marking shall conform with the Manual on Uniform Traffic Control Devices, Federal Highway Administration, U.S. Department of Transportation, as adopted by the FDOT, as revised.

(8) **Drainage.** Runoff from vehicular use areas shall be controlled and treated in accordance with all applicable agency standards in effect at the time an application is submitted.

(9) **Landscaping.**

(a) All vehicular areas shall be landscaped in accordance with the standards of Sec. 7.D.12 (Landscaping and Buffering).

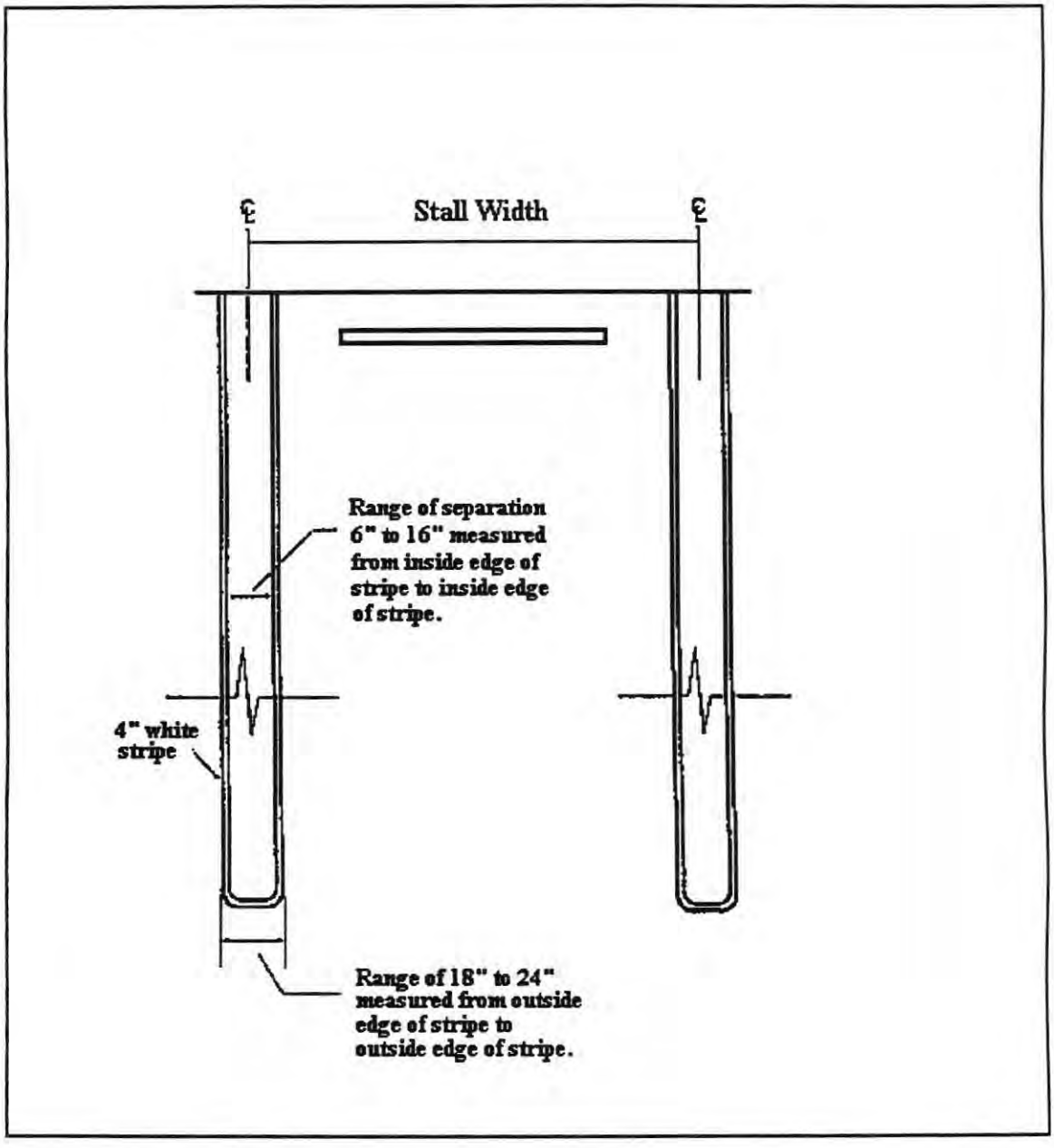
(b) Renovations or additions to vehicular use areas shall provide landscape improvements. Where the renovation affects more than twenty-five percent (25%) of the vehicle use area or an addition is greater than twenty-five percent (25%) of the total vehicular use area than a Landscape Betterment Plan shall be provided for the entire vehicular use area which:

i) Meets the requirements of Sec. 7.3.E.1 of the Landscape Code, and

ii) Permits safe and logical transition between old and new vehicular use areas.

(10) **Preservation.** Existing vegetation shall be preserved and incorporated into the landscaping for the vehicular use area.

FIGURE 7.2-3
STRIPING STANDARDS



13. **Ingress and egress to vehicular use areas.**

a. **Ingress and egress.** Each parking space shall have appropriate access to a street or an alley. Only dwelling units with no more than two (2) units shall be allowed backward egress from a driveway onto a local street. In all other cases, maneuvering and access aisle area shall be sufficient to permit vehicles to enter and leave the vehicular use area or specialized vehicular use area in a forward motion.

b. **Dimensions of access ways.** Access ways, except those associated with residential uses, shall be subject to the following dimensional standards.

TABLE 7.2-4
DIMENSION OF ACCESS WAYS

Minimum Width at Street*	Feet
One-Way	15
Two-Way	25
Two-way with Median**	40
Two-way without Median	35
Right Turn Radius* **	
Minimum	25
Maximum	30

* Measured along right-of-way line at inner limit of curbed radius sweep or between radius and near edge of curbed island at least fifty (50) square feet in area. The minimum width applies principally to one-way driveways. Widths exceeding these standards may be approved by the Zoning Director or the County Engineer, depending on the use.

** Excluding median. Twenty (20) foot unobstructed pavement shall be on both sides of median, excluding guard houses and landscape islands.

***On side of driveway exposed to entry or exit by right-turning vehicles.

---

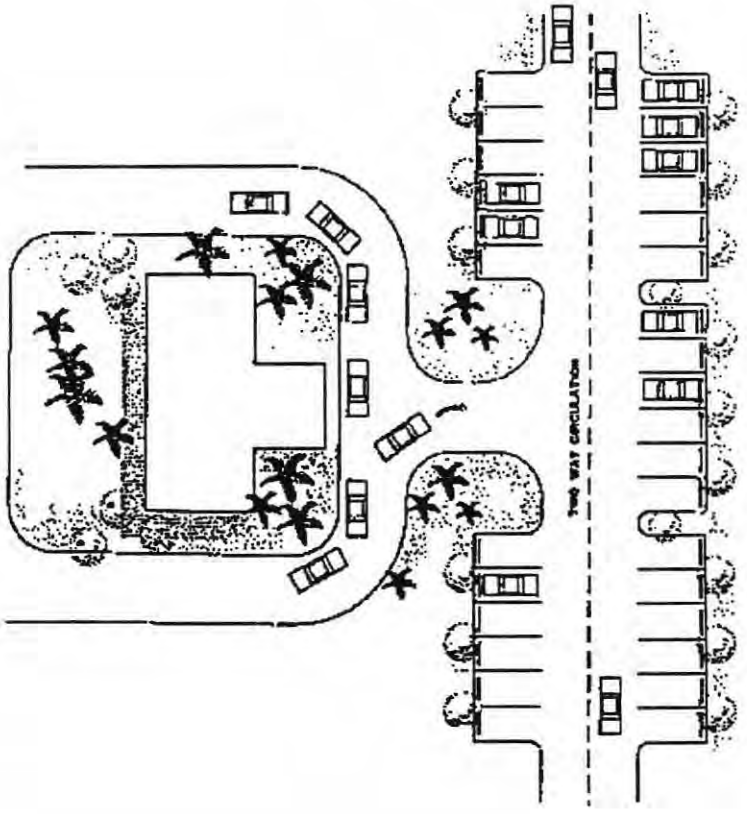
14. **Queuing standards.** In addition to meeting the minimum off-street parking and loading standards of this section, all drive-through establishments shall meet the standards listed below:

a. Each queuing lane shall be clearly defined and designed so as not to conflict or interfere with other traffic using the site;

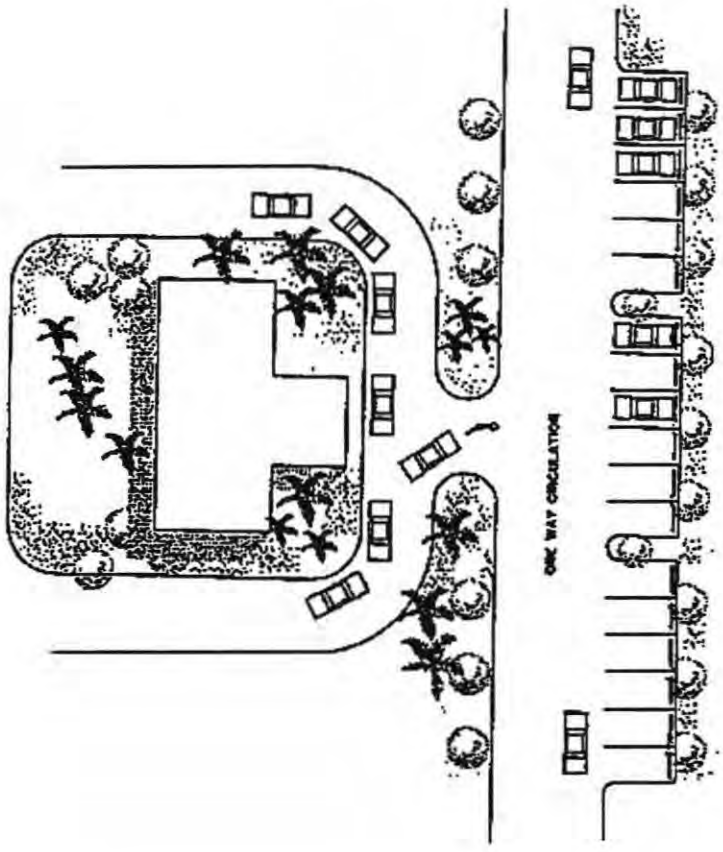
b. A by-pass lane a minimum of twelve (12) feet wide shall be provided if the parking lot is designed for one-way traffic flows. Subject to the Zoning Division's approval, a by-pass lane may not be required if the queuing lane is adjacent to a parking lot lane which could function as a by-pass lane. (See **Alternate Solutions to By-Pass Lane Requirement** below.) The by-pass lane shall be clearly designated and distinct from the queuing area; and

Alternate Solutions To By-Pass Lane Requirement

Alternate 1: Elimination of the By-Pass Lane by integration of the Two-Way Parking with the stacking lane (as suggested in the ULDC as alternative solution).



Alternate 2: Elimination of the By-Pass Lane by integration of the One-Way Parking with the stacking lane.



c. For each lane (not the total for the site), the minimum number of required queuing spaces, including the one accommodating the vehicle being serviced, shall be as provided in Table 7.2-4. Each queuing space shall be a minimum of ten (10) feet by twenty (20) feet in size. Unless otherwise indicated below, queuing shall be measured from the front of the stopped vehicle (that would be located at the point of ultimate service) to the rear of the queuing lane.

TABLE 7.2-5
MINIMUM QUEUING STANDARDS

Use	Number of Spaces
Drive-Through Financial Institution	
Teller Lanes	5
Automatic Teller Lanes	3
Drive-Through Restaurant	7
Minimum before Menu Board	4
Drive-Through Car Wash	
Automatic	5
Self-Service	3
Drive-Through Oil Change	4
Gasoline Pump at Service Station	30 Feet of Queuing at Each End of Pump Island
Drive-Through Convenience Store	3
Drive-Through Dry Cleaning or Laundry	3
Drive-Through General Retail	4
Commercial Parking Lot	3
Vehicular Inspection Station	15

15. Public, private or commercial parking lots.

a. **General.** Where permitted by a Class "B" conditional use, off-street parking lots and structures shall be allowed as the principal use. These parking lots shall not be contiguous to lands used or zoned for residential purposes. Parking spaces may be rented for parking. No other business of any kind shall be conducted on the lot, including repair, service, washing, display or storage of vehicles or other goods. Review of parking lots and structures shall consider the proposed operation of the lot. The standards of this section, including signage, maneuvering, and backup distances may be varied, based on the proposed operation.

b. **Design.** Plans for parking lots shall be drawn to a scale no smaller than one (1) inch equals fifty (50) feet and show the layout of the street connection and access ways, drainage provisions, signs, surfacing, curbs or barriers, street connections and access ways of lands located contiguous and directly across the street, and the location and type of landscaping.

c. **Street connections.**Street connections (entrances and exits) shall be located to present the least interference with traffic and the least nuisance on any adjacent street. The point of entrance control shall be located to provide four (4) car queuing (minimum of 80 feet) distance from the right-of-way.

The location, size and number of entrances and exits shall be subject to the approval of the Development Review Committee.

16. **Standards for parking structures.**

a. **General.** All public or private parking garages may be used to meet off-street parking standards for any use or combination of uses, and such structures shall be considered accessory to the principal use. Garages shall be designed to meet or exceed the following standards. All public or private parking garages shall comply with the standards for surface parking lots with regard to marking, signage and minimum number of spaces to be provided.

b. **Site plans.** When the parking facilities are housed in an underground garage or a multi-storied structure or on the roofs of buildings, a Site Plan/Final Subdivision Plan shall be submitted thereunder for approval of interior traffic circulation, slope of ramp, ease of access and utilization of ramps, for parking space and aisle dimensions, proper traffic control signing and pavement marking for safe and efficient vehicular and pedestrian operation, for location of entrances and exits on public roads, for approval of sight distances at such entrances and exits and at corners of intersecting public roads, and for approval of the effective screening of the cars located in or on the parking structures from adjoining lands and from public roads.

c. **Design standards.**

(1) **Module width standards.** The unobstructed distance between columns or walls measured at any point between the ends of the parking aisle shall be as specified in Table 7.2-5.

TABLE 7.2-6
MINIMUM MODULE WIDTHS

Angle	Parking on Both Sides of Aisles	Parking on One Side of Aisle
90	60 feet one-or two-way aisle	43 feet one-or two way aisle
75	59 feet one-way aisle*	40 feet one-way aisle
60	53 feet one-way aisle*	34 feet one-way aisle

* Requests for reductions of unobstructed distances will be considered if the space and aisle dimensions specified in surface parking dimensions are met and the columns are not located at the rear of the parking spaces or interfere with the opening of doors.

(2) **Minimum parking space widths.** The minimum parking space width shall be nine (9) feet, provided that the minimum clear distances specified above are met.

17. **Parking of vehicles and boats in residential districts.** The following standards shall apply to the parking of vehicles, recreational vehicles, boats and trailers in the residential districts. For the purposes of this section, the AR-Agricultural Residential District shall not be considered a "residential" district.

a. **General prohibition.**

(1) **On-street.** No person shall park, store, or keep a commercial vehicle, recreational vehicle, sports vehicle such as dune buggy, jet skis, racing vehicle, off-road vehicle, air boat, canoe or paddleboat, boat or trailer, on any public street, or other thoroughfare or any right-of-way within any a residential district for a period exceeding one (1) hour in any twenty-four (24) hour period, each such period commencing at the time of first stopping or parking.

(2) **Off-street.** It shall be unlawful for any owner of land in any residential district to park on, cause to be parked on, or allow to be parked on residentially zoned land any unlicensed or unregistered vehicle, or a commercial vehicle, sports vehicle, recreational vehicle, boat or trailer for a period exceeding one (1) hour in any twenty-four (24) hour period, each such period commencing at the time of first stopping or parking, except that one vehicle which is unregistered or unlicensed may be kept on site provided the vehicle is completely screened from view from adjacent roads and lots.

b. Exemptions.

(1) **Commercial vehicle.** One commercial vehicle per dwelling unit of not over one (1) ton rated capacity may be parked, providing all of the following conditions are met: vehicle is registered or licensed; used by a resident of the premises; gross weight does not exceed ten thousand (10,000) pounds, including load; height does not exceed nine (9) feet, including any load, bed, or box; and total vehicle length does not exceed twenty six (26) feet.

(2) **Construction vehicles.** The prohibitions set out above in Sec. 7.2.C.17.a (General prohibition) shall not apply to the temporary parking of such vehicles on private land in residential districts where construction is underway, for which a current and valid building permit has been issued by the Building Director and the building permit is displayed on the premises.

(3) **Delivery and service vehicles.** The one (1) hour parking restriction set out above in Sec. 7.2.C.17.a (General prohibition) shall not apply to routine deliveries by tradesmen, or the use of trucks in making service calls, provided that such time in excess of one (1) hour is actually in the course of business deliveries or servicing.

(4) **Emergency repairs.** The restrictions set out above in Sec. 7.2.C.17.a (General prohibition) shall not apply to a situation where a large motor vehicle becomes disabled and, as a result of such emergency, is required to be parked within a residential district for longer than one (1) hour. Any large motor vehicle shall be removed from the residential district within twenty-four (24) hours, regardless of the nature of the emergency.

(5) **Outdoor storage of boats, sports vehicle and recreational vehicles.** One (1) boat or boat trailer, with or without a boat, one (1) jet ski trailer, with or without up to two (2) jet skis, one sports vehicle such as a dune buggy, jet-ski, racing vehicle, off-road vehicle, air boat, canoe, or paddleboat and one (1) recreational vehicle per dwelling unit may be parked outdoors in a residential district provided that:

(a) The boat, boat trailer, sports vehicle or recreational vehicle is owned and used by a resident of the premises;

(b) The boat, boat trailer, sports vehicle or recreational vehicle is not parked in a required front yard or other area between the structure and the street except for the purpose of loading or unloading during a period not to exceed one (1) hour in any twenty-four (24) hour period, however, the Board of Adjustment may give variance relief from this requirement for either one (1) boat and boat trailer, sports vehicle or one (1) recreational vehicle and neither may be greater than ten (10) feet in height or thirty (32) feet in length;

(c) If the boat, boat trailer, sports vehicle or recreational vehicle is located in the side or rear yard, it shall be effectively screened from view of abutting lands by a masonry wall, ornamental fence or dense hedge planting at least six (6) feet in height;

(d) The boat, boat trailer, sports vehicle or recreational vehicle is not used for living, sleeping or housekeeping purposes;

(e) The boat, boat trailer or recreational vehicle is operative and is currently registered or licensed, as required by state or federal law.

(f) Vehicles on navigable waterways shall be exempt from the outdoor storage standards of this subsection; and

(g) One vehicle, which does not meet the requirements of this subsection 17(b) may be approved by special permit upon demonstration that:

i) The property owner, family member or legal tenant has a physical disability which requires a vehicle which cannot meet these requirements.

[Ord. No. 93-4] [Ord. No. 94-23] [Ord. No. 95-8]

D. Off-street loading.

1. Computing loading standards.

a. Multiple uses. On lots containing more than one (1) use, and where the floor area used for each use is below the minimum for required loading spaces but the aggregate total floor area is greater than the minimum, off-street loading space shall be provided as if the entire building were used for that use in the building for which the most spaces are required. In such cases, the Zoning Director may make reasonable requirements for the location of the required loading space.

b. Fractions. When calculation of the number of required off-street loading spaces results in a fractional number, a fraction of less than one-half (0.50) shall be disregarded and a fraction of one-half (0.50) or more shall be rounded to the next highest full number.

c. Floor area. Loading standards that are based on square footage shall be computed using gross floor area (GFA).

d. Unlisted uses or other cases of uncertainty. If there is uncertainty about the amount of loading space required by the provisions of this section as a result of indefiniteness about the proposed use, the maximum standard for the general type of use that is involved shall govern. Where the required number of loading spaces is not set forth for a particular use, and where there is no similar general type of use listed in this section, the Zoning Director shall determine the basis for the number of spaces to be provided by determining the off-street loading demand for the most similar use.

2. Loading space ratios. Off-street loading spaces shall be provided in accordance with the standards of the off-street parking and loading schedule in Table 7.2-1. The letters shown in the "loading" column of the schedule shall correspond to the following ratios:

a. Standard "A". One (1) space for the first five thousand (5,000) square feet of floor area, plus one (1) space for each additional thirty thousand (30,000) square feet of floor area;

b. Standard "B". One (1) space for the first ten thousand (10,000) square feet of gross floor area, plus one (1) space for each additional fifteen thousand (15,000) square feet of floor area;

c. Standard "C". One (1) space for the first ten thousand (10,000) square feet of gross floor area, plus one (1) space for each additional one hundred thousand (100,000) square feet of floor area; and

d. **Standard "D".** One (1) space for each fifty (50) beds for all facilities containing twenty (20) or more beds.

3. **Location of spaces.** Loading berths and related space shall be located directly adjacent to the building which requires designated loading space. Loading areas shall be proportionately distributed throughout the site.

4. **Loading demand statement.** All applications for new or increased use or capacity for nonresidential establishments shall include a statement outlining the use's projected normal demands for loading and unloading, and a plan showing the location on the lot of the off-street loading space to be provided, in accordance with the provisions of this section.

5. **Relationship to streets and off-street parking areas.**

   a. A street or walkway shall not be used for loading or unloading materials.

   b. An off-street loading area shall not be used to satisfy any off-street parking standards, and the location of the loading area shall not interfere with the free circulation of vehicles in the off- street parking area.

   c. Where loading areas are directly adjacent to or integrated with an off-street parking lot, the Development Review Committee may require installation of physical barriers, such as curbing, fences, solid hedges, or other means for separation of loading areas from parking areas and pedestrian traffic.

6. **Dimensional standards and design requirements.** Required off-street loading spaces shall be subject to the following minimum dimensional standards:

   a. **Width.** A single loading berth shall have a minimum width of fifteen (15) feet. Additional loading berths that lie alongside, contiguous to, and not separated from a first loading berth shall be a minimum of twelve (12) feet in width;

   b. **Length.** All loading berths shall be a minimum of fifty-five (55) feet in length;

   c. **Maneuvering apron.** An area equal to the width and length of the berth shall be provided for vehicle maneuvering directly behind the loading berth it is intended to serve;

   d. **Vertical clearance.** A vertical clearance of at least fifteen (15) feet shall be provided throughout the berth and maneuvering apron; and

   e. **Distance from intersections.**

      (1) **Distance.** No loading space or berth shall be located within forty (40) feet of the nearest point of the edge of pavement or curb of any two (2) intersecting streets.

(2) **Setback.** The surfaced portions of all loading areas, excluding driveways, shall be setback at least twenty (20) feet from all front or side corner lines. When located at the rear of a building, a minimum five (5) foot setback from the property line of all land under separate ownership or control shall be required.

7. **Entrances and exits.** The location and design of entrances and exits shall be in accordance with Sec. 7.2.C.13 (Ingress and egress to vehicular use areas) and Sec. 7.7 (Driveways and Access).

8. **Paving and drainage.** All loading areas shall be paved in accordance with the provisions of Sec. 7.2.C.12.b (Paving and drainage design).

9. **Access marking.** Each off-street loading space shall be provided with safe and convenient access to a street, without it being necessary to cross or enter any other required loading space. If any loading space is located contiguous to a street, ingress and egress to the street side shall be provided only through driveway openings. The dimension, location and construction of these driveways shall be designed in accordance with the provisions of this section. In addition, off-street loading spaces which have three (3) or more berths shall have individual spaces marked, and spaces shall be so arranged that maneuvering to and from a loading space shall be on the same lot unless approved by the Development Review Committee. Maneuvering shall be permitted in an alley upon the approval of the Development Review Committee if surrounding uses are compatible with the subject use.

10. **Reduction in required loading space.** All required off-street loading spaces and their appurtenant aisles and driveways shall be deemed to be required space and shall not be encroached upon or reduced in any manner except upon approval by the Development Review Committee, in the following circumstances:

a. **Reduction in number of berths.**

(1) **Change in use.** The number of loading spaces may be proportionately reduced if the space is not needed as a result of a reduction in size or change in the nature of the use to which loading spaces are served.

(2) **Administrative reduction.** For uses which contain less then ten thousand (10,000) square feet of total floor area, the Development Review Committee may waive or reduce the loading standards whenever the character of the use is such as to make unnecessary the full provision of loading facilities and where such provision would impose an unreasonable hardship upon the use of the lot.

b. **Reduction in size of berth.** Reduced space dimensions shall be permitted upon a finding that all of the following standards have been met:

(1) The manner of operation proposed is such that spaces of the required dimensions are unnecessary because, the size, character, and operation of the use will not regularly involve service by motor vehicles which require the dimensions of an off-street loading berth, such as, but not limited to the following uses: bowling alleys and other recreational establishments, financial institutions, funeral chapel and funeral homes, nursing homes, offices, and personal service establishments;

(2) The uses are likely to continue or to be succeeded by others for which the same space dimensions will be adequate, or that any additional loading space necessary could be provided in a logical location without creating violations of other standards; and

(3) Any reduction provides for a minimum space length of fifteen (15) feet, a space width of at least twelve (12) feet, maneuvering apron of at least twenty (20) feet in length and twelve (12) feet in width, and a vertical clearance of ten (10) feet.

11. **Repair activities.** No motor vehicle repair work except emergency repair service, shall be permitted in any required off-street loading facility.

12. **Landscaping.** All off-street loading areas shall be landscaped in accordance with Sec. 7.D.12.

[Ord. No. 93-4; February 2, 1993] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-8; March 21, 1995] [Ord. No. 95-24; July 11, 1995]

SEC. 7.3 LANDSCAPING AND BUFFERING.

A. **Purpose and intent.** The purpose and intent of this section is to promote the health, safety, and welfare of existing and future residents of Palm Beach County by establishing minimum standards for the installation and continued maintenance of landscaping and buffers within unincorporated Palm Beach County. The specific objectives of the section are as follows:

1. **Aesthetics.** To improve the aesthetic appearance of development through landscaping requirements that help to harmonize and enhance the natural and built environment;

2. **Environmental quality.** To improve environmental quality by maintaining permeable land areas essential to surface water management and aquifer recharge; reducing and reversing air, noise, heat, and chemical pollution through the biological filtering capacities of trees and other vegetation; promoting energy conservation through the creation of shade; reducing heat gain in or on buildings or paved areas through the filtering capacity of trees and other vegetation; reducing the temperature of the microclimate through the process of evapotranspiration; and encouraging the use of limited fresh water resources through the use of drought resistant plants;

3. **Water conservation.** To promote water conservation by encouraging xeriscaping and utilization of native and drought tolerant landscape material; utilization of water conserving irrigation practices; adherence to sound landscape installation standards and maintenance procedures that promote water conservation; ecological placement of landscape material; and utilization of natural areas and vegetation.

4. **Preservation of native plants and vegetation.** To encourage the preservation and planting of native vegetation and plants;

5. **Efficiency in land development.** To promote efficiency in the development of limited land resources by improving the compatibility of otherwise incompatible land uses in close proximity, particularly residential development that is adjacent to more intensive commercial and industrial development;

6. **Land values.** To maintain and increase the value of land by requiring minimum landscaping which becomes a capital asset;

7. **Human values.** To provide physical and psychological benefits to persons through landscaping, by reducing noise and glare, and by softening the harsher visual aspects of urban development;

8. **Removal of prohibited plant species.** To encourage the eradication or control of prohibited plant species which have become nuisances because of their tendency to disrupt or destroy native ecosystems; and

9. **Improved design.** To encourage innovative and cost-effective approaches to the design, installation and maintenance of landscaping, particularly those that promote energy, water conservation and incorporate areas of native vegetation.

B. Applicability. The provisions of this section shall be considered minimum standards and shall apply to all development in unincorporated Palm Beach County, except that development exempted in Sec. 7.D.12 (Exemptions).

C. Exemptions. The following development shall be exempt from the standards of this section:

1. **Enlargement or repair of single-family or duplex development.** The enlargement or repair of one (1) single-family detached or duplex residence on a single lot;

2. **Buildings or structures accessory to single-family or duplex development.** The initial construction, enlargement or repair of buildings or structures accessory to one (1) single-family or duplex residence on a single lot;

3. **Vehicular use areas within or on top of a building.** Vehicular use areas consisting exclusively of parking areas entirely within or on top of a structure. Parking structures within one hundred (100) feet of a public right-of-way or within one hundred (100) feet of a single-family district shall, however, provide planters at each level of the parking structure. The planter shall provide a total of one-half (0.5) square foot of planting area for each linear foot of facade per parking level. Planting areas may be arranged in linear fashion or clustered at intervals, and shall be provided with permanent irrigation to permit watering of plant materials. Planters shall be landscaped pursuant to the provisions of this section;

4. **Bona fide agricultural production.** Bona fide agricultural production activities;

5. **Development that does not entail a substantial change in use.** Existing development that does not entail a substantial change in use. If a substantial change in use occurs on the site of an existing development, the Tree planting and preservation standards of Sec. 7.E and the Compatibility landscape buffer strip standards of Sec. 7.E....(d), E....(d) shall apply; and

6. **Development with site development or building permit approval.** Development that has received a certified site plan or building permit approval prior to June 16, 1992, except as provided in Article 1. **[Ord. No. 93-4]**

D. Procedure.

1. **General.**

a. Prior to the issuance of a building permit or a paving permit for any development except a single-family dwelling or duplex residence, a landscape plan which has been prepared by and bears the seal of a landscape architect authorized to prepare landscape plans by chapter 481, part II (Landscape Architecture), of Florida Statutes, shall be submitted to, reviewed by, and approved by the department, pursuant to the terms of this section.

b. Prior to the issuance of a building permit or a paving permit for a single-family dwelling or duplex residence, a landscape plan which does not have be to prepared by or bear the seal of a landscape architect or other licensed professional shall be submitted to, reviewed by, and approved by the department, pursuant to the terms of this section.

2. **Contents of proposed landscape plan.** An applicant shall submit a proposed landscape plan to the zoning director. Each proposed landscape plan shall:

a. Be drawn to scale, including dimensions and distances;

b. Delineate existing and proposed parking spaces, access aisles, driveways, and other vehicular use areas;

c. Indicate, by diagram, the proposed location of water outlets, and by diagram or note, the location of sprinklers and any proposed sprinkler zones;

d. Designate by name and location the plant material to be installed or preserved in accordance with the standards of this section;

e. Identify and describe the location and characteristics of all other landscape materials to be used;

f. Show all landscape features, including areas of native vegetation required to be preserved by law, in context with the location and outline of existing and proposed buildings and other improvements upon the site, if any;

g. Indicate the condition of soils and the method of installation of all plant materials;

h. Include a tabulation displaying the relevant statistical information necessary for the department to evaluate compliance with the provisions of the Landscape Code, including gross acreage of the development, the area of preservation areas, the number of trees to be planted or preserved, the square footage of paved areas and such other information as the department may require;

i. Include, if relevant, a tree survey which shall be prepared by, and bears the seal of, a registered land surveyor licensed to practice in the State of Florida, drawn to a convenient scale, which shall include:

(1) Property boundaries;
(2) Easements;
(3) Rights-of-way;
(4) Existing of proposed buildings, structures, or other improvements, if any;
(5) Existing or proposed utility services, including septic tank drain fields;
(6) Bodies of surface water;
(7) The nature of adjacent land uses; and
(8) Protected trees or groupings of trees, and species of trees to be removed or relocated; in the case of groupings of trees, the predominant species mix and estimated number shall be identified; trees or areas of vegetation which are required to be preserved, such as mangroves or specimen trees, shall be delineated and identified; areas infested with prohibited or controlled plant species shall also be delineated and identified; and

j. Any other information that may be required by the department that is determined necessary to adequately review the proposed landscape plan.

E. **Landscape standards.**

1. **Tree planting and preservation standards.** The following tree planting and preservation standards shall apply to all development. They may be used to satisfy, in whole or in part, the standards of Sec. 7.E....(d), E....(d) (Interior of vehicular use areas); Sec. 7.E....(d) (Compatibility landscape buffer strips); any other special landscape buffer standards imposed by the Board of County Commissioners; and any landscape or vegetation standards for littoral zones of lakes. All other landscape standards of this section shall be in addition to these following standards. Trees planted pursuant to Sec. 7.I.1 (Right-of-way landscape) shall not be used to satisfy the standards of Sec. 7.E, E (Landscape standards).

   a. **Residential lot.** One (1) tree shall be planted or preserved for every one thousand five hundred (1500) square feet of a residential lot or fraction thereof, excluding only areas of vegetation required to be preserved by law and preservation areas. No more than fifteen (15) new trees shall be required to be planted on any residential lot that is to be developed for one (1) single-family dwelling or one (1) duplex residence. See landscape and preservation standards in Secs. 7.D.12 and 7.E, E excluding required buffer widths.

   b. **Nonresidential Lot.** One (1) tree and three (3) shrubs shall be planted or preserved for every twenty-five hundred (2500) square feet of a nonresidential lot or fraction thereof, excluding only areas of vegetation required to be preserved by law and preservation areas. The minimum shrub planting standard is exclusive of shrubs or hedges required to be planted in perimeter buffers. See landscape and preservation standards in Sec. 7.3.D. and 7.3.E. excluding required buffer widths.

   c. **Planned development district.** One (1) tree shall be planted or preserved for every one thousand five hundred (1,500) square feet of a residential lot and for every two thousand five hundred (2,500) square feet of a nonresidential lot or fraction thereof within a planned development, excluding only areas of vegetation required to be preserved by law and preservation areas. The number of trees required to be planted or preserved in a phase, or subdivision plan of a planned development shall be a proportion of the total number of trees required to be planted in the overall planned development. (This proportion shall be determined by comparing the area of the phase or subdivision plan to the area of the entire planned development as shown on its current, controlling preliminary development plan). Areas of vegetation required to be preserved by law shall be excluded from the calculation of the area of a phase or subdivision plan of the planned development. Preliminary development plans and subdivision plans shall indicate the minimum number of trees to be planted. This figure is intended to be suggestive of the total number of trees which shall be planted or preserved in each subarea. The actual number of trees to be planted or preserved on individual lots will be established on individual building plans.

   d. **Applicability of tree planting and preservation standards to areas regulated by Federal or State law:** Certain uses such as airports and stockades are subject to Federal and State laws that regulate and/or prohibit the planting of trees within certain areas on site because of the function of the use. The identified land area subject to the following criteria may be excluded from the area to be included in the calculation of tree planting requirements:

      (1) There are public safety issues prohibiting the placement of trees; and

(2) Federal or State law prohibits the planting of trees.

This provision is not intended to preclude preservation of required vegetation or the planting of trees within vehicular use areas, compatibility buffers, public use areas or along rights-of-way.

e. **Use of site specific planting materials.** Trees and other vegetation shall be planted in soil and climatic conditions which are appropriate for their growth habits. Plants used in the landscape design shall to the greatest extent possible be:

(1) Appropriate to the conditions in which they are to be planted, for instance:
   (a) Plant materials installed on a berm comprised of sandy materials should be able to tolerate reduced water conditions;
   (b) Plant materials installed in locations where the predominate soil type is well-draining sands should be able to tolerate reduced water conditions;
   (c) Plant materials installed around retention/detention ponds or in swales should be able to tolerate wet conditions caused by poorly draining soils; and
   (d) Plant materials installed in locations where the predominate soil type is marly, mucky, has a hardpan layer or is one of many other poorly draining soils, shall be plant materials that are able to tolerate wet conditions.
(2) Have non-invasive growth habits;
(3) Encourage low maintenance, high quality design;
(4) Be otherwise consistent with the intent of this section.

2. **Interior of vehicular use areas.** The interior of vehicular use areas shall be subject to the following minimum planting and maintenance standards. Planting within landscape buffer strips required by Sec. 7.E....(d) (Landscape buffer strips), shall not be used to satisfy the interior of vehicular use area landscape standards. The gross area of landscape buffer strips that exceed the minimum standards of Sec. 7.E....(d) (Landscape buffer strips), may, however, be credited to satisfy the interior landscape standards of this subsection.

a. **Off-street parking.** Off-street parking areas shall be landscaped in accordance with one (1) of the following alternatives:

(1) **Parking areas without 4 or more spaces that intersect.** For parking areas without four (4) or more parking spaces that intersect and for parking areas with staggered parking, the following standards shall apply:
   (a) **Landscape.** A minimum of forty (40) square feet of landscaping for each parking space shall be provided within the interior of an off-street parking area and between buildings and vehicular use areas, excluding loading areas. If any interior landscaping is transferred to the perimeter of the site, then fifty (50) square feet of landscaping for each parking space is required, pro-rated on amount transferred. At least one (1) tree shall be planted in each terminal island and interior island. Any combination of landscaped islands, median strips or planting areas may be used to satisfy the standards of this section;
   (b) **Mandatory terminal island design.** Each row of parking spaces shall be terminated by landscaped islands which measure not less than five (5) feet in width and not less than fifteen (15) feet in length;

(c) **Mandatory interior island design.** Interior landscape islands shall be provided within each row of parking spaces. A minimum of one (1) interior island shall be provided for every twelve (12) parking spaces or fraction thereof. Landscaped interior islands shall measure not less than five (5) feet in width. The length of interior islands shall be no less than the minimum required depth of the parking space;

(d) **Optional divider median design.** Landscaped divider medians may be used to meet interior landscape standards. If divider medians are used, they shall form a continuous landscaped strip between abutting rows of parking spaces. The minimum width of a divider median shall be ten (10) feet. One (1) tree shall be planted for each thirty (30) feet of divider median, or fraction thereof. Trees in a divider median may be planted singly or in clusters, with a maximum spacing of sixty (60) feet on center. The landscaped divider median may serve as the first two and one-half (2.5) feet of a parking space, with wheel stops serving as curbing, such that the effective depth of the paved parking space is reduced by two and one-half (2.5) feet.;

(e) **Additional landscape treatment.** All interior landscaped areas not dedicated to trees or to preservation of existing vegetation shall be landscaped with grass, ground cover, shrubs, or other appropriate landscape treatment. Sand or pavement shall not be considered appropriate landscape treatment; and

(f) **Curbing.** Terminal islands, interior islands and optional divider medians shall be surrounded with a continuous, raised curb which meets the standards of Sec. 7.3.H.6.a. These curbing standards may be waived for portions of divider medians which directly abut parking spaces using wheel stops. Landscape island and median strip width shall be measured from the inside edge of the curb.

(2) **Parking areas with 4 or more spaces that intersect.** In off-street parking areas that contain four (4) or more parking spaces that intersect, landscaping shall be provided in accordance with the following minimum landscape standards or the landscape standards of Sec. 7.E....(d) (Parking areas without 4 or more spaces that intersect). Any combination of interior landscape island, median strip or grade level tree planting area may be used to satisfy these requirements. Parking areas with staggered parking shall be landscaped in accordance with Sec. 7.E....(d) (Parking areas without 4 or more spaces that intersect).

(a) **Mandatory terminal island design.** Each row of parking spaces shall be terminated by landscaped islands which measure not less than five (5) feet in width and at least fifteen (15) feet in length. At least one (1) tree shall be planted in each terminal island.

(b) **Interior grade-level tree planting area design.** Trees required to be planted by this subsection shall be distributed throughout the interior of an off-street parking area to provide shading of parked motor vehicles. Trees shall be planted with a separation of no more than twenty (20) feet on center. Grade level tree planting areas shall be located at the common intersection of four (4) parking spaces. The minimum area of a tree planting area shall be twenty (20) square feet, and the minimum dimensions shall be four (4) feet by five (5) feet. Trees shall be planted on center at the point of intersection of the four (4) parking spaces. The ground within the tree planting area shall receive appropriate landscape treatment, including mulch or ground cover.

b. **Other vehicular use areas used by the public.** For vehicular use areas that are not used as off-street parking areas, but which do serve access, circulation and temporary vehicle storage needs of the public (e.g., access ways in planned developments; stacking and queuing areas in service stations, banks and drive-in restaurants; and outdoor retail sales and display of new and used vehicles), the following minimum landscape standards shall apply. These standards shall also apply to vehicular use areas used for non-public storage of new or used motor vehicles or boats; local, suburban and inter-urban bus terminals and service facilities; and motor freight terminals which are not normally open to the public. This subsection shall apply only to that portion of a lot that is actually used for specialized vehicular uses. Employee parking lots shall be considered public vehicular use areas.

(1) **Landscape.** A minimum of fifteen (15) percent of the gross paved area of such vehicular use area that is open to the public, but that is not used for off-street parking, shall be devoted to interior landscaping.

(2) **Placement of landscape materials.** The interior landscaping required by this subsection shall be installed in a manner that mitigates negative use impacts by providing adequate buffering. If the landscaped area is moved to the perimeter of the lot, it shall be designed as an integral part of landscape buffers. One (1) additional tree shall be planted for each two hundred fifty (250) square feet of landscape area transferred to the landscape buffer area. The landscaped area may be designed as a divider median strip to accommodate a minimum of one (1) tree for each thirty (30) linear feet of divider median, or fraction thereof.

c. **Tree and shrub maintenance.** Trees planted in vehicular use areas shall be allowed to grow to a mature height and a full canopy. Pruning shall be limited to periodic trimmings (see Sec. 7.?, Tree pruning) to maintain the health of the trees or shrubs.

3. **Landscape buffer strips.** Landscape buffer strips shall be installed and maintained in accordance with the following standards.

a. **Streets and interior lot lines.** Where property lines abut streets or the interior lot line of an abutting property, the following standards shall apply:

(1) **Width of landscape buffer strips that abut streets.** The width of the landscape buffer strip abutting streets shall depend on the width of the street's ultimate right-of-way as referenced by Table 7.3-1.

(2) **Planned districts.** A Planned Development District's perimeter landscape area varies depending upon the type of Planned Development District selected, see Sec. 6.8.A.23.b, Planned Development District Regulations.

TABLE 7.3-1
WIDTH OF BUFFER STRIPS
DEVELOPMENTS OF LESS THAN 15 ACRES

Width of Ultimate Right-of-Way[1]	Minimum Width of Landscape Buffer Strip
0-99 Feet[2]	10 Feet
100+ Feet[3]	15 Feet

Notes to Table 7.3-1:

[1] The width of the ultimate right-of-way shall be determined by reference to the Traffic Circulation Plan Map of the Palm Beach County Comprehensive Plan, as amended. Street classifications corresponding to right-of-way widths for non-thoroughfare plan street classifications shall be determined by reference to Article 8, Chart 8.22.2, Minor Streets

[2] Corresponds to access easements, marginal access roads, local streets, or collector streets. It includes a limited number of substandard arterial streets which have been incorporated into the County road system.

[3] Corresponds to Arterial Street or Expressway.

---

(3) **Width of landscape buffer strips that abut interior lot lines.** The width of the landscape buffer strip adjacent to an interior lot line of an abutting land shall be five (5) feet.

(4) **Length.** The landscape buffer strip shall extend along the length of the boundary abutting right-of-way, and along the length of the property line abutting adjacent property. The landscape buffer strip may be traversed by access ways as necessary to comply with the standards of this section, Art. 8 (Subdivision standards), and any other County Codes.

(5) **Tree planting.** One (1) tree shall be planted or preserved for each three hundred (300) square feet of required landscape buffer strip or planted and preserved for the equivalent of one (1) tree for each thirty (30) linear feet, whichever requires the greatest number of trees. In calculating the number of trees to be planted, fractional distances shall be rounded down. The width of access ways which traverse required landscape strips shall be included in the calculation of linear dimension. The trees and plants shall comply with the following standards:

(a) **Tree spacing.** Trees in a landscape buffer strip may be planted in clusters. The maximum spacing of trees in landscape buffer strips abutting dedicated rights-of-way shall not exceed sixty (60) feet on center. The spacing of trees in landscape buffer strips abutting interior lot lines shall not exceed thirty (30) feet on center.

(6) **Landscape barriers.** A hedge, wall, fence, berm, or other landscape barrier shall be installed and maintained within the landscape buffer strip. Unless otherwise provided in this section, the barrier shall be no less than three (3) feet in height within a maximum of two (2) years after installation. The barrier shall be no more than twelve (12) feet in height for commercial uses, and four (4) feet in height in the front yard and eight (8) feet in height in the side and rear yards for residential uses.

(a) **Hedges.** If a hedge is used as an element of the landscape barrier, plants shall be selected which comply with the Plant Material Standards of Sec. 7.3.F. If the placement of the hedge conflicts with a pre-existing dedicated easement, the hedge shall not encroach the easement unless the provisions of Sec. 6.5.H (Easement encroachment) are satisfied. The hedge shall be no more than twelve (12) feet in height for commercial uses, and four (4) feet in height in the front yard and eight (8) feet in height in the side and rear yards for residential uses.

(b) **Non-living landscape barriers in interior landscape buffer strips.** If walls, fences, or other non-living barriers are used as elements of the landscape barrier, a minimum of one (1) shrub or vine shall be planted for each ten (10) linear feet of required landscape barrier. If, upon planting, shrubs or vines are not of sufficient height to be clearly visible above the top of the landscape barrier, the shrubs or vines shall be planted on the outside of the barrier. The wall, fence or other nonliving barrier shall be no more than twelve (12) feet in height for commercial uses, and four (4) feet in height in the front yard and six (6) feet in height in the side and rear yards for residential uses.

(c) **Non-living barriers in landscape buffer strips adjacent to a right-of-way**. If a wall or fence or other non-living barrier is used, they shall be located on the interior edge of the required landscape buffer strip with the required landscaping located between the wall, fence or other non-living barrier and the right-of-way. If the placement of the wall, fence or non-living barrier conflicts with a pre-existing dedicated easement, the wall, fence or non-living barrier shall not encroach the easement unless the provisions of Sec. 6.5.H (Easement encroachment) are satisfied. The wall, fence or other nonliving barriers shall be no more than twelve (12) feet in height for commercial uses, and four (4) feet in height in the front yard and six (6) feet in height in the side and rear yards for residential uses.

(d) **Earth berms.** Earth berms may be used only when installed in conjunction with sufficient plant materials to satisfy the provisions of this section. The slope of a berm shall not exceed a ratio of three-to-one (3:1).

(7) **Additional landscape treatment.** The remainder of the landscape buffer strip shall be landscaped with grass, ground cover, or other appropriate landscape treatment. Sand or pavement shall not be considered appropriate landscape treatment.

b. **Compatibility landscape buffer strips**. The entire perimeter landscaping shall be installed for residential and commercial developments, other than Planned Development Districts, prior to the issuance of the first certificate of occupancy in accordance with the requirements of Table 7.3-3. For a phased residential development, the buffer strip shall be installed along the entire perimeter of each phase. The buffer strips shall be maintained and preserved along the entire length of the property line between the incompatible use or district abutting the district or development. Non-residential uses contiguous to residential districts where there is no existing residential development and which does not have a commercial or industrial designation on the Future Land Use Atlas of the Comprehensive Plan shall provide a landscape buffer in accordance with article 7.3.E.3.a(3-5) (Landscape buffer strips that abut interior lot lines.

(1) **Width.** The required width of landscape buffer strips separating incompatible land uses and Zoning Districts shall depend on the type of alternative strip required, as follows:

TABLE 7.3-2
WIDTH OF COMPATIBILITY BUFFER STRIPS

Landscape Strip	Width
Alternative 1	Five (5) Feet
Alternative 2	Five (5) Feet
Alternative 3	Ten (10) Feet
Alternative 4	Twenty-Five (25) Feet

The width of landscape buffer strips separating incompatible land uses shall not be calculated to include utility easements.

(2) **Tree planting.** Within all required compatibility landscape buffer strips, trees shall be installed and maintained, or preserved, in accordance with the following standards:

(a) In required compatibility buffer strips for proposed nonresidential uses abutting residential development or residential districts, a minimum of one (1) tree shall be planted for each twenty (20) linear feet of abutting land line, or fraction thereof; or

(b) In required buffer strips separating two (2) or more residential developments or districts or two (2) or more nonresidential developments or districts, a minimum of one (1) tree shall be planted for each thirty (30) linear feet of abutting land line, or fraction thereof.

TABLE 7.3-3
COMPATIBILITY BUFFER OPTIONS

Proposed Zoning or Use	Abutting Zoning or Use						
	Rural Residential	Single-Family	Multi-Family	Commercial or Office	CRE	Industrial	PO
RSER	1,2,3	1,2,3					
CN	1*	1*	1*				
CLO, CC, CHO, CG	1,2,3	1,2,3	1,2,3				
Conditional Use	1,2,3,4	1,2,3,4	1,2,3,4	1,2,3,4	1,2,3,4	1,2,3,4	
CRE	1,2,3	1,2,3	1,2,3	1,2,3	1,2,3		
SA	1,2,3	1,2,3	1,2,3	1,2,3	1,2,3	1,2,3	
Industrial Zoning	1,2,3	1,2,3	1,2,3	1,2,3	1,2,3		1,2,3,4
PO	1,2,3	1,2,3	1,2,3	1,2,3	1,2,3		
Water and Wastewater Treatment Facilities	4	4	4	4	4		4
Electrical Power Substations	4	4	4	4	4		4
Type III Excavation	4	4	4	4	4	4	4

*Alternative 1, but a 10-foot width is required.

Alternative 1 Five (5) foot wide landscape buffer strip, with a six (6) foot wall and minimum twelve (12) foot tall trees spaced no more than twenty (20) feet on center between nonresidential/residential and no more than thirty (30) feet on center between nonresidential/nonresidential or residential/residential.[1]

Alternative 2 Six (6) foot wall and minimum twelve (12) foot tall trees planted in grade level planters, spaced no more than twenty (20) feet on center between nonresidential/residential and no more than thirty (30) feet on center between nonresidential/nonresidential or residential/residential.[1]

Alternative 3 Ten (10) foot wide landscape buffer strip, with a six (6) foot wall, hedge, fence, berm or combination thereof and minimum twelve (12) foot tall trees spaced no more than twenty (20) feet on center between nonresidential/residential and no more than thirty (30) feet on center between nonresidential/nonresidential or residential/residential.[1]

Alternative 4 Twenty five (25) foot wide landscape buffer strip, and two rows of twelve (12) foot tall trees spaced no more than twenty (20) feet on center between nonresidential/residential and no more than thirty (30) feet on center between nonresidential/nonresidential or residential/residential. The Board of County Commissioners shall have the option of requiring any combination of Alternatives 1,2,3 or 4 buffer requirements for proposed uses to which Alternative 4 standards apply.

[1] Animal migration openings shall be provided when there are two preserve areas located on either side of a property line which requires a landscape barrier containing a wall or fence. Pedestrian access openings may be required by the Zoning Division.

(3) **Tree spacing requirements.** Trees within Compatibility Landscape Strips shall be planted with a maximum spacing of twenty (20) feet on center between nonresidential and residential developments, thirty (30) feet on center between abutting nonresidential developments and thirty (30) feet on center between abutting residential developments. For Compatibility Landscape Strip number two (2), required trees shall be planted along the lot perimeter in grade level tree planting areas spaced at no more than thirty (30) feet on center. The minimum area of a tree planting area shall be twenty (20) square feet, and the minimum dimensions shall be four (4) feet by five (5) feet. The ground within the tree planting area shall receive appropriate landscape treatment, including mulch or ground cover. For Compatibility Landscape Strip number four (4), trees shall be planted within the strip in double rows.

(4) **Landscape barriers.** A landscape barrier shall be installed within compatibility buffer strips in accordance with the following standards:

(a) For landscape buffer strips one (1) and two (2), a solid concrete block (CBS) and steel-reinforced wall, with a continuous footing, or an alternative approved by the Development Review Committee, shall be installed. The minimum height of the wall shall be six (6) feet, as measured from the highest grade on either side of the abutting lots. The exterior side of the wall shall be given a finished architectural treatment which is compatible with and harmonizes with abutting development; and

(b) For landscape buffer strip three (3), a landscape barrier consisting of a hedge/wall combination shall be installed. The landscape barrier shall present a continuous, solid visual screen at least six (6) feet in height within two (2) years of installation, with pedestrian openings provided for connections between internal and external pedestrian/bicycle circulation routes.

c. **Perimeter landscape and edge areas for planned developments.** Planned Developments shall be landscaped along their perimeters, land use zones and incompatible land uses in accordance with the standards found in Sec. 6.8.A.23, Planned Development Regulations.

d. **Alternative use of native vegetation.** Existing native vegetation shall be deemed to satisfy the landscape buffer standards, in total or in part, upon the approval of the Development Review Committee. In determining whether native vegetation satisfies the buffer standards, the following shall be considered:

(1) The effectiveness of the visual screening which will be provided;
(2) The quality of the vegetation being preserved;
(3) The proposed native buffer makes use of existing native vegetation, which may include trees. If no trees exist in the proposed buffer, no additional trees will be required if adequate screening is provided; and
(4) Native vegetation from areas of the site to be developed may be relocated to the buffer area.

4. **Tree credits.** A native wetland tree planted in a littoral zone, a preserved native tree, or drought-tolerant tree on-site, that meets the standards specified in this section may be substituted for any of the trees required to be planted by Sec. 7.E (Tree planting and preservation standards), Sec. 7.E....(d), E....(d) (Interior of vehicular use areas) or Article 7. or by the planned development standards of Sec. 6.8 or the provisions of Sec. 6.7, supplemental regulations for affordable housing.

a. **Tree surveys.** Credit shall be granted for preservation of existing native or drought-tolerant trees if the application is accompanied by a tree survey.

b. Tree credit formula. Existing native wetland trees in littoral zones or drought-tolerant trees shall be credited according to the formula in Table 7.3-4. Fractional measurements shall be attributed to the next lowest category.

TABLE 7.3-4
TREE CREDITS

Crown Spread of Tree	Or	Diameter of Tree at 4.5 Feet Above Grade	=	Credits
90 Feet or Greater	or	36 inches or more	=	7
60-89 Feet	or	30-35 inches	=	6
50-59 Feet	or	26-29 inches	=	5
40-49 Feet	or	20-25 inches	=	4
30-39 Feet	or	13-19 inches	=	3
20-29 Feet	or	8-12 inches	=	2
10-19 Feet	or	2-7 inches	=	1
Less than 10 Feet	or	Less than 2 inches	=	0

Replacement trees shall be 100% native and shall meet requirements of Sec. 7.F.

c. Trees excluded from credit. No tree credits shall be permitted for the following types of trees:

(1) **Required preservation.** Trees which are required to be protected by law, or trees located in required preservation areas;
(2) **Not protected during construction.** Trees which are not properly protected from damage during the construction process, as provided in Sec. 7.H.6.c (Tree protection);
(3) **Prohibited or controlled species.** Trees which are classified as prohibited or controlled species;
(4) **Dead or diseased trees.** Trees which are dead, dying, diseased, or infested with harmful insects; or
(5) **Recreation tracts, golf courses, or similar subareas within planned developments.** Trees which are located within recreation tracts, golf courses or similar subareas within planned developments which are not intended to be developed for residential, commercial, or industrial use.

5. **Tree replacement.** When existing native or drought tolerant trees are removed or damaged without a vegetation removal permit during property development, they shall be replaced in accordance with the tree replacement credit standards of Table 7.3-4.

6. **Alternative landscape betterment plans.** Applicants shall be entitled to demonstrate that the intent of this section can be more effectively met, in whole or in part, through an Alternative Landscape Betterment Plan. An Alternative Landscape Betterment Plan shall be reviewed by the Development Review Committee, and, if approved, shall be substituted, in whole or in part, for a landscape plan meeting the express terms of this section.

a. **Submittal requirements.** Applicants seeking approval of an Alternative Landscape Betterment Plan shall be subject to the following standards.

(1) Each Alternative Landscape Betterment Plan shall be clearly labeled as an "Alternative Landscape Betterment Plan"; and

(2) Each Alternative Landscape Betterment Plan shall clearly delineate and identify the deviations permitted from the provisions of this section.

b. **Review standards.** In reviewing proposed Alternative Landscape Betterment Plans, the Development Review Committee shall give favorable consideration to exceptional landscape designs which attempt to preserve and incorporate native existing vegetation in excess of minimum standards and plans that demonstrate innovative design and use of plant materials. Certain uses such as airports, power plants and stockades function in a manner which is contrary to the public benefit of the planting of trees on-site in accordance with Sec. 7.3.E.1 of this Code and which tree planting is regulated by Federal or State law. In such instances, the BCC or DRC, whichever is appropriate, may review and approve the planting of a portion of the minimum tree planting requirement off-site where there is a direct public benefit, such as but not limited to, places such as public parks, libraries, streets and medians within the community that the proposed use serves. A minimum number of trees shall be planted on-site to landscape public areas, vehicular use areas, rights-of-way buffers, building foundations planting, and to buffer incompatible land uses as appropriate.

The landscape betterment plan shall include an off-site planting plan(s) for the proposed tree planting locations including documentation of the approval and acceptance of such plan by the appropriate regulating agencies.

The Development Review Committee shall not approve an Alternative Landscape Betterment Plan if it:

(1) Results in the planting or preservation of fewer trees than the minimum number required by the standards of Sec. 7.E (Tree planting and preservation standards);

(2) Violates the terms or conditions of any Code or ordinance of Palm Beach County. In particular, an Alternative Landscape Betterment Plan shall not be a substitute for any variance required to be obtained by this Code; or

(3) Is not as good as a plan prepared in strict compliance with the other standards of this section, or is otherwise inconsistent with the intent of this subsection to encourage exceptional or unique landscape designs.

[Ord. No. 93-4] [Ord. No. 94-23] [Ord. No. 95-8]

F. Tree and landscape material standards. The following standards shall be considered the minimum required planting standards for all trees and landscape material.

1. **General.** Trees and plants used in landscape design pursuant to this section shall, to the greatest extent possible, be drought tolerant, appropriate for the ecological setting in which they are to be planted, have non-invasive growth habits, encourage low maintenance and high quality landscape design, be commercially available, and be otherwise consistent with the purpose and intent of this section.

2. **Plant quality.** Plants installed pursuant to this section shall conform to or exceed the minimum standards for Florida Number 1, as provided in the most current edition of "Grades and Standards for Nursery Plants, Parts I and II", prepared by the State of Florida Department of Agriculture and Consumer

Services. Another accepted standard may be used if it equals or exceeds the quality of Florida Number 1.

3. **Tree and plant species list.** A recommended Tree and Plant Species list shall be developed, periodically revised, and distributed to the public by the PZB Department as an informational guide for the selection of tree and plant species which meet the standards of this section. The recommended Tree and Plant Species List shall also identify plant species which shall be prohibited from being planted in required landscape areas. The standard used to identify these prohibited tree and plant species shall be based upon the general intent of this section.

4. **Artificial plants.** No artificial plants or vegetation shall be used to meet any standards of this section.

5. **Drought-tolerant plants.** At least twenty-five (25) percent of the plants used to satisfy the standards of this section shall be classified as very drought-tolerant in the most recent edition of the South Florida Water Management District's *Xeriscape Plant Guide*.

6. **Tree diameter and height.**

   a. **Vehicular use areas.** Immediately upon planting, trees shall be a minimum of ten (10) feet in height with a minimum diameter of two (2) inches measured at a point which is at least four and one-half (4 1/2) feet above existing grade level. In addition trees shall be allowed to attain a minimum height of sixteen (16) feet in height prior to the implementation of; crown reduction; topiary; or, other canopy reduction pruning. Minimum pruning necessary to allow healthy tree growth is permitted.

   b. **Perimeter buffers.** Immediately upon planting, trees shall be a minimum of twelve (12) feet in height with a minimum diameter of two and one-half (2 1/2) inches measured at a point which is at least four and one-half (4 1/2) feet above existing grade level. In addition, trees shall be allowed to attain a minimum height of sixteen (16) feet in height prior to the implementation of; crown reduction; topiary; or, other canopy reduction pruning. Minimum pruning necessary to allow healthy tree growth is permitted.

7. **Tree crown and canopy.**

   a. **Vehicular use areas.** Required trees shall have at installation a minimum of four (4) feet of clear trunk and a minimum five (5) foot canopy spread, except as otherwise noted. In Addition, trees shall be allowed to attain a minimum eight (8) foot canopy spread, except as otherwise noted. Trees located in required safe sight triangles shall allowed to attain a minimum of six (6) feet of clear trunk. The diameter spread of the canopy shall be determined by the average canopy radius at three (3) points measured from the trunk to the outermost branch tip.

   b. **Perimeter buffer areas.** Required trees shall at installation have no minimum clear trunk requirements and a minimum six (6) foot canopy spread, except as otherwise noted. In Addition, trees shall be allowed to attain a minimum eight (8) foot canopy spread, except as otherwise noted. The diameter of spread of the canopy shall be determined by the average canopy radius at three (3) points measured from the trunk to the outermost branch tip.

8. **Required tree species.** A minimum of fifty (50) percent of all trees required to be planted by this section shall be native species or listed as drought tolerant or very drought tolerant by the South Florida Water

Management District's Xeriscape Plant Guide. A minimum of seventy-five (75) percent of all trees that are required to be planted in the interior of vehicular use areas shall be shade trees, as indicated on the recommended tree and plant species list.

9. **Palm trees.** Palms planted in landscape buffers shall be installed in groups of no less than three (3). Each group of three (3) palms in a buffer strip shall be considered to be one (1) tree. In the case of species of palms which characteristically grow in clumps, each clump shall be considered to be one (1) tree. Each palm used in interior planting shall be considered to be one (1) tree. Palms planted in the interior of vehicular use areas shall be an appropriate species which when mature will not interfere with required lighting or other land development regulations.

10. **Tree species mix.** When more than ten (10) trees are required to be planted to meet the standards of this section, a mix of species shall be provided. The number of species to be planted shall vary according to the overall number of trees required to be planted. The minimum number of species to be planted is indicated in Table 7.3-5. Species shall be planted in proportion to the required mix. This species mix standard shall not apply to areas of vegetation required to be preserved by law.

TABLE 7.3-5
TREE SPECIES MIX

Required Number of Trees	Minimum Number of Species
11-20	2
21-30	3
31-40	4
41+	5

11. **Hedges and shrubs.** A minimum of fifty (50) percent of all hedges and shrubs required to be planted by this section shall be native species. Hedges and shrubs shall be a minimum of twenty-four (24) inches in height immediately upon planting, and spaced at a maximum of twenty-four (24) inches on center. Hedges shall form a solid continuous visual screen of at least three (3) feet in height within two (2) years after the time of planting.

12. **Vines.** A minimum of fifty (50) percent of all vines required to be planted by this section shall be native species or listed as drought tolerant or very drought tolerant by the South Florida Water Management District's Xeriscape Plant Guide. Vines shall have a minimum of five (5) runners, each a minimum thirty (30) inches in length immediately upon planting. Vines may be used in conjunction with fences, screens, or walls to meet physical barrier standards. If vines are used in conjunction with fences, screens, or walls, their runners will be attached to the fence, screen, or wall in a way that encourages proper plant growth.

13. **Ground treatment.** The ground area within required landscaped areas which is not dedicated to trees, vegetation, or landscape barriers shall receive appropriate landscape treatment and present a finished appearance and reasonably complete coverage upon planting. The following standards shall apply to the design of ground treatment:

    a. **Ground cover.** A minimum of fifty (50) percent of all ground cover required to be planted by this section shall be native species or listed as drought tolerant or very drought tolerant by the South Florida

Water Management District's Xeriscape Plant Guide. Ground cover may be planted in lieu of lawn and turf grass in conjunction with planting of trees, shrubs, or hedges. Ground cover shall provide a minimum of fifty (50) percent coverage immediately upon planting or at time of inspection and one hundred (100) percent coverage within three (3) months after planting.

b. **Mulch.** Mulch shall be installed and maintained at a minimum depth of three (3) inches on all planted areas except ground covers.

c. **Pebbles and egg rock.** Pebbles or egg rock may be used in a limited way as a ground treatment in areas where drainage is a problem.

d. **Lawn and turf grass.** Grass areas shall be planted with species suitable as permanent lawns in Palm Beach County. Grass areas may be sodded, plugged, sprigged, or seeded, provided that solid sod shall be used in swales, rights-of-way or other areas subject to erosion. In areas where grass seed is used, nursegrass seed shall also be sown for immediate effect, and maintenance shall be provided until coverage is complete. Because of their drought resistant characteristics, it is recommended that the Bahia grass species be used. Use of drought-tolerant ground cover instead of lawn and turf grass is encouraged where feasible.

e. **Native vegetation areas.** Ground treatment is not required in areas of native vegetation.

14. **Prohibited plant species.** The following plant species shall not be planted:

a. **Melaleuca quinquenervia** (commonly known as Punk Tree, Cajeput, or Paper Bark);

b. **Schinus terebinthifolius** (commonly known as Brazilian Pepper or Florida Holly);

c. **Casuarina trees** (commonly known as Australian Pine); or

d. **Acacia auriculaeformis** (commonly known as Earleaf Acacia).

15. **Eradication of prohibited plant species.** Each Landscape Plan (or plot plan for single-family or duplex uses) or Alternative Landscape Betterment Plan required or permitted shall include a program to eradicate and prevent the reestablishment of prohibited plant species.

16. **Controlled plant species.** The following plant species have a tendency to become nuisances if they are not properly controlled. These species may be planted or maintained under controlled conditions provided that they are installed or cultivated according to the following standards:

a. **Casuarina species hedges (australian pine).** Casuarina species may be maintained as a hedge if it was planted prior to February 1, 1990. A casuarina hedge shall be constantly maintained and shall not exceed twelve (12) feet in height.

b. **Ficus species.** Ficus species may be planted as individual trees provided that they are no closer than fifteen (15) feet from any structure or utility. Ficus species planted within fifteen (15) feet of any structure or utility shall be permitted only if they are:

(1) Contained in a planter approved by the Development Review Committee; or

(2) Maintained as hedge which is constantly cultivated and does not exceed twelve (12) feet in height for non-residential uses and Planned Unit Development perimeter landscape buffers. Residential uses shall comply with Sec. 6.6.A.2.c.(1) height restrictions.

c. **Grevillea robusta (silk oak) and Dalbergia sisoo (rosewood).** These species may be planted, but cannot be counted for more than ten (10) percent of the total number of trees required by this section.

d. **Invasive non-native plant species.** The installation of any plant species listed in Sec. 7.5.H.5, Vegetation Preservation and Protection is prohibited on sites with a designated preserve area.

[Ord. No. 93-4] [Ord. No. 93-17] [Ord. No. 94-23]

G. **Water conservation.** All Landscape Plans shall be required to demonstrate compliance with the water conservation standards by obtaining a minimum score of thirty (30) points from the water conservation point scale identified in Table 7.3-6.

TABLE 7.3-6
WATER CONSERVATION POINT SCALE

Technique/Design Feature	Points
Moisture-Sensing Controller (other than rainswitch)	5
Drip/Trickle/Micro Irrigation System	
25 - 50 percent of system	5
51 - 75 percent of system	7
76 -100 percent of system	10
Irrigation Quality Effluent Irrigation	
25 - 50 percent of site	10
51 - 90 percent of site	20
91 -100 percent of site	30
Florida Native Landscape	
25 - 50 percent of landscape area	10
51 - 90 percent of landscape area	20
91 -100 percent of landscape area	30
Required Trees, Very Drought-Tolerant	
26 - 50 percent	5
51 -100 percent	10
Extra Shade Trees, Very Drought-Tolerant	
20 - 50 percent more trees than required	10
51 -100 percent more trees than required	20
Sod/Turf Area Alternatives	
26 - 50 percent of permitted sod/turf area	5
51 -100 percent of permitted sod/turf area	10
Required Shrubs, Very Drought-Tolerant	
26 - 50 percent	5
51 -100 percent	10

Notes to Table 7.3-6:

1. Florida Native Landscape may be preserved or reestablished. Reestablished Florida Native Landscape must include trees, understory and ground cover, with no more than fifty (50) percent of the site sodded.
2. Credit for "Sod/Turf Area Alternatives" given for planting/seeding native wildflowers, meadow grasses or ground cover in-lieu of allowable sodded area.

H. **Installation, maintenance, irrigation and replacement**. The following standards shall be considered the minimum required installation, maintenance, irrigation and replacement standards for all trees and landscape material.

1. **Installation.** All landscaping shall be installed according to sound nursery practices in a manner designed to encourage vigorous growth. Soil improvement measures may be required to ensure healthy plant growth. A plant or tree's growth characteristics shall be considered before planting to prevent conflicts with views or signage. Such conflict shall not in itself permit the pruning of trees in excess of thirty (30) percent of the tree's canopy in any given year as regulated by the Pruning standards of this section.

2. **Replacement.** Vegetation which is required to be planted or preserved by this section shall be replaced with equivalent vegetation if it is not living within one (1) year of issuance of a Certificate of Occupancy or Certificate of Completion. Preserved trees for which credit was awarded and which subsequently die within that year, shall be replaced by the requisite number of living trees according to the standards established in this section.

   Landscape trees which were planted or preserved to meet the minimum landscape code requirements may be considered for removal provided a Landscape Tree Removal and Replacement Application is applied for and approved. All trees which are removed must be replaced according to the Table 7.3-5.

3. **Maintenance.** The land owner, or successors in interest, or agent, if any, shall be jointly and severally responsible for the following:

   a. Regular maintenance of all landscaping in good condition and in a way that presents a healthy, neat, and orderly appearance. All landscaping shall be maintained free from disease, pests, weeds and litter. This maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching or other maintenance, as needed and in accordance with acceptable horticultural practices;

   b. The repair or replacement of required landscape structures (e.g., walls, fences) to a structurally sound condition;

   c. The regular maintenance, repair, or replacement, where necessary, of any screening or buffering required by this section;

   d. Perpetual maintenance to prohibit the reestablishment of harmful exotic species within landscaping and preservation areas; and

   e. Continuous maintenance of the site.

4. **Tree Pruning.** Pruning of trees shall be permitted to allow for healthy tree growth, and to promote safety considerations. The following criteria applies to the pruning of all required trees, unless expressly exempt, pursuant to this section within unincorporated Palm Beach. For sea grapes and mangroves species within the Coastal Protection Zone see Article 9, Sections: 9.1 (Coastal Protection), and 9.4 (Wetland Protection).

   a. A maximum of **one third (0.33)** of tree canopy may be removed from a tree within a **one (1)** year period, provided that the removal conforms to the standards of fine, standard, topiary, hazard and crown reduction pruning techniques accepted by the Zoning Director. The canopy of a tree required

by this code or condition of approval shall not be reduced below the minimum spread or height requirements of this code or specific Board of County Commissioners Conditions of approval.

b. Fine, Standard, Topiary, Hazard and Crown Reduction pruning cuts are defined by the National Arborist Association, as amended time to time, and are commonly used to improve the aesthetics of a tree in addition to improving the structural integrity of a tree. One or more of these pruning techniques may be used for all trees, unless expressly exempt pursuant to this code. These techniques are represented in the Palm Beach County Pruning Manual and are intended to serve as a recommended reference for proper pruning practices. Pruning Manuals shall be available to the public from the Zoning Division and other appropriate agencies.

c. Tree topping (hatracking) is prohibited and shall be defined as the cutting back of limbs to a point between branch collars/buds larger than one inch in diameter within the tree's crown.

d. Exceptions.

(1) Trees affected by FAA and airport safety regulations.
(2) Removal and replacement or crown reduction pruning may exceed the maximum pruning limits of **one-third (0.33)** of a tree canopy and shall be used only for the following site conditions as determined by the Zoning Director, or County Forester prior to the commencement of the pruning activity:
  (a) If a tree interferes with a safe site triangle; utility lines or utility structures;
  (b) If a tree has crown dieback or decay greater than one third the tree canopy;
  (c) If a tree has suffered damage due to natural or human causes; or,
  (d) If a tree has insect or disease problem.
(3) The pruning of trees on single family lots unless conducted by a commercial tree service business, landscape company, lawn service business or other related businesses;
(4) Umbrella Trees *(Schefflera actinophylla)* or other trees recommended by the Citizen Task Force Committee and approved by the County Forester;
(5) Botanical gardens, or botanical research centers;
(6) The Zoning Director may suspend the provision of this Section during times of natural disaster or other catastrophic events.

5. **Irrigation.** Landscaped areas shall be irrigated as necessary to maintain required plant materials in good and healthy condition. Irrigation systems shall comply with the following standards:

a. All landscaped areas shall be provided with a readily available water supply with at least one (1) outlet within seventy-five (75) feet of the plants to be maintained. The use of non-potable water for irrigation purposes shall be encouraged;

b. Irrigation systems shall be continuously maintained in working order and shall be designed so as not to overlap water zones or to water impervious areas;

c. No irrigation system shall be installed or maintained abutting any public street which causes water from the system to spurt onto the roadway or to strike passing pedestrian or vehicular traffic;

d. The use of irrigation quality or re-used water shall be required for, but not limited to, parks and recreation facilities (e.g., golf courses or medians) that are within one (1) mile of reuse wastewater

mains or within the Irrigation Quality (IQ) effluent water service area of the Palm Beach County Water Utilities Department where irrigation quality or re-used water is available and where such reuse is approved by the regulatory agencies;

e. The use of irrigation quality or re-used water shall be encouraged through inter-local agreements with municipalities and utilities that provide water and wastewater service to the unincorporated areas, provided that the reuse wastewater main is within one (1) mile, where irrigation quality water is available and where such reuse is approved by the regulatory agencies;

f. No permanent irrigation system is permitted for an area set aside on approved site development plans for preservation of existing native vegetation;

g. Temporary irrigation systems installed pursuant to acceptable xeriscape practices may be used to meet the standards of this section, upon approval of the Development Review Committee; and

h. Whenever practical, irrigation systems shall be designed in districts to apply water onto shrub and tree areas on a less frequent schedule than those irrigating lawn areas. When technically feasible, a rain-sensor switch shall be installed on systems with automatic controllers.

6. **Curbing and encroachment of vehicles.** The following landscape protection measures shall be required for all landscaping installed or preserved pursuant to this section and shall be shown on paving and drainage plans

a. **Curbing.**

(1) Except as provided in Sec. 7.H.6.b (Wheel stops), all landscape areas subject to vehicular encroachment shall be separated from vehicular use areas by six (6) inch, non-mountable, FDOT-type "D" or FDOT-type "F", concrete or asphalt curbing. The curbing shall be machine-laid, formed-in-place or integral with the pavement. The use of extruded curbing shall be prohibited. In interior vehicular use areas, those landscape areas to be separated are:

(a) All terminal islands;
(b) All interior islands; and
(c) All landscape areas adjacent to vehicular use areas serving access and temporary vehicle storage needs of the public that require curbing when located behind a parking space to prevent vehicular encroachment when backing up, i.e., access roads in planned developments, stacking areas in gas stations, banks and drive-in restaurants, or outdoor retail sales and display of new and used vehicles.

(2) The curbing on all landscape areas shall include the full radius and extend a minimum of five (5) feet beyond the point of tangency of the radius. Termination of all curbing shall include a one (1) foot minimum taper to meet existing grade.

b. **Wheel stops.** The landscape area in front of any off-street parking space shall be protected from vehicular encroachment by the use of concrete wheel stops or continuous concrete curbing. Wheel stops shall have a minimum height of six (6) inches above finished grade of the parking area. Wheel stops shall be properly anchored and shall be continuously maintained in good condition. Where wheel stops are located within two (2) feet of the front of a parking space, that two (2) feet may be landscaped with turf or ground cover in lieu of paving. Only the portion of the parking space forward of the back of

the wheelstop shall remain unpaved. Wheelstop anchor rods shall be set through the pavements and the bottom of the wheelstop must rest fully on the pavement to prevent rocking.

c. **Tree protection.** Trees which are to be preserved shall be protected from damage during the construction process, in accordance with the standards of Sec. 7.5 (Vegetation Protection), and other appropriate tree protection techniques. In determining the appropriateness of particular techniques, the current edition of the "Tree Protection Manual for Builders and Developers," published by the Division of Forestry of the State of Florida Department of Agriculture and Consumer Services, or a similar reference manual shall be used.

7. **Use of landscaped areas.**

a. **No storage of materials.** Landscape areas which are required to be created or preserved by this section shall not be used for the storage of materials or sale of products or services.

b. **Signs within landscape areas.** All signs within required landscaped areas shall comply with the standards of Sec. 7.14 (Signage) and shall be supplemented with a three (3) foot wide planting area around the base of the sign. One shrub for each ten (10) square feet of sign surface area shall be installed within the required planting area. Monument signs may be surrounded by ground covers instead of shrubs. Landscaping and trees which interfere with signage, may be relocated to the rear of the required planting area.

c. **Drainage easements.** Drainage easements shall not be located within landscape buffers.

8. **Safe sight distance triangles.**

a. Safe sight distance triangles shall be provided in accordance with County *Design Manual* standards. Extended safe sight distance triangles shall be required in individual cases when the County Engineer determines that intersecting street alignments or other factors are such that the standard safe sight distance triangles are insufficient to ensure appropriate minimum stopping/crossing sight distances, in accordance with FDOT "Green book" criteria.

b. All landscaping within the required safe sight distance triangle areas or extended safe sight distance triangles shall be planted and maintained as follows:

(1) Safe sight distance triangle areas shall be planted and maintained in a way that provides unobstructed visibility at a level between thirty (30) inches and eight (8) feet above the crown of the adjacent roadway;
(2) Vegetation located adjacent to and within safe sight distance triangle areas shall be trimmed so that no limbs or foliage extend into the required visibility area;
(3) Within safe sight distance triangle areas, vegetation shall not be planted, nor shall improvements or devices such as bus benches or shelters or newspaper vending machines be installed in a way that creates a traffic hazard;
(4) Landscaping shall be located in accordance with the roadside clear zone provisions of the State of Florida Department of Transportation's *Manual of Uniform Minimum Standards for Design, Construction, and Maintenance of Streets and Highways*, as amended;
(5) No parking or vehicular use areas shall be permitted within the required safe sight distance triangular areas; and

(6) All landscaping shall be planted and perpetually maintained within the safe sight distance triangle area, in accordance with this section.

[Ord. No. 93-17] [Ord. No. 94-23]

I. **Landscape in rights-of-way and easements.**

1. **Right-of-way landscape.** A land owner may be permitted or required by the County Engineer to landscape the medians or swales of streets, provided that the plant material to be used complies with the standards of Sec. 7.F (Tree and landscape material standards) is appropriate for the location, and provided that the following standards are met. Application forms shall be prepared and made available to applicants by the Department of Engineering and Public Works. Approval of "on-site" landscape plans shall not constitute approval of any street or right-of-way landscaping that may appear on such plans. The County Engineer shall retain final authority to approve or disapprove street and right-of-way landscaping plans and maintenance requirements with respect to safe and proper engineering practices. All approvals shall be subject to any conditions imposed by the DEPW.

   Where appropriate and prior to issuance of a development order, a property owner shall be required by execution of a declaration in the public records, or other means acceptable the County Attorney, to install and maintain landscaping along land in or abutting thoroughfare roads.

2. **Landscape in easements.** Landscaping may be permitted in easements only with the written permission of the easement holder. Written permission shall be submitted in a form acceptable to the Palm Beach County Attorney. Permission shall be filed with the land records applicable to the site, as maintained by the Clerk of the Circuit Court of Palm Beach County. A utility or drainage easement may cross a tree planting strip only upon the approval of the Zoning Director.

J. **Special landscape and vegetation protection standards.**

1. **Lake Worth and Loxahatchee River buffers.** A fifty (50) foot native vegetation buffer shall be preserved along Lake Worth and the Loxahatchee River. The fifty (50) foot buffer shall be measured from the present commonly recognized waterway bank.

2. **Native plant community set aside.** All development shall comply with Sec. 7.5 (Vegetation Protection).

3. **Wetlands.** A buffer zone of native upland vegetation shall be planted pursuant to Sec. 9.4 (Wetlands Protection).

4. **Surface water management tracts.** Functional vegetated littoral zones shall be established pursuant to Sec. 7.6 (Excavation).

5. **Care and maintenance.** The Board of County Commissioners through its respective Departments, such as Engineering, Parks and Recreation, Airports, Agriculture, and Environmental Resources Management, shall be responsible for the care and maintenance of the trees present on County-owned property.

K. **Temporary suspension of landscape standards**. The installation of landscaping required by this section may be temporarily suspended, in individual cases, by the Executive Director of PZB; after a freeze when required landscape materials are not available; during a period of drought in which the use of water is restricted by a governmental authority; or prior to a building certificate of occupancy in response to extenuating circumstances beyond the control of the applicant.

1. **Performance surety.** If the landscape standards of this section are suspended pursuant to this section, the PZB Department shall enter into an agreement with the land owner, that will allow issuance of the permit or Certificate of Occupancy or Certificate of Completion. Such an agreement will be approved only if, in the opinion of the County Attorney, the land owner provides adequate guarantee or surety that the terms of this section shall be met. The guarantee shall consist of a performance bond or other surety agreement approved by the County Attorney, in an amount equal to one hundred and ten (110) percent of the direct costs of materials and labor, and other costs incidental to the installation of the required landscaping.

2. **Surety bond requirements.** Performance guarantees required pursuant to this subsection shall run to the Board of County Commissioners, be in a form satisfactory and acceptable to the County Attorney, and specify the time-frame for the completion of the landscape standards of this section. An application for a surety bond shall be accompanied by a Landscape Plan prepared by the applicant which shall identify the plantings which have been postponed and include a project schedule. Planting cost estimates shall be verified by competent authority.

L. Administration.

1. **Field inspections.** Unless otherwise provided in this section, all development subject to this section shall be inspected by the PZB Department prior to issuance of a paving permit or Certificate of Compliance.

2. **Optional special certification.** In lieu of initial field inspection and certification by the PZB Department, the land owner may submit a special Certificate of Compliance which complies with the following:

   a. **Form of special certification.** The special certification shall:

      (1) Be submitted to PZB Department prior to issuance of a building permit, paving permit or Certificate of Occupancy or Certificate of Completion;
      (2) Be submitted in sufficient numbers upon forms available from the PZB Department;
      (3) Bear the seal of a landscape architect;
      (4) State that the landscape architect or other licensed professional personally inspected the site;
      (5) State that the landscape architect or other licensed professional certifies that landscaping was properly installed and meets all requirements of this section and of this section;
      (6) State that the landscape architect or other licensed professional understands that any misrepresentations or misstatements in the special certificate of compliance shall constitute a violation of this section and of State law;
      (7) State that the landscape architect or other licensed professional understands that misrepresentations or misstatements in the special certificate of compliance may also become the grounds for professional disciplinary action pursuant to State law; and
      (8) Contain such other information as required by the PZB Department which is reasonable and necessary to a determination that landscaping is in compliance with this section.

   b. **Field verification of special certification.** The PZB Department may at its option conduct a field inspection to verify representations made in the special certificate of compliance.

   c. **Acceptance of special certification.** If no field verification is conducted by the PZB Department, the special certificate of compliance shall be deemed to have been accepted. Upon acceptance by the Department, the special certificate of compliance shall be filed and maintained with the official records of the development.

M. Enforcement. Failure to comply with the requirements of this section or any permit or approval granted or authorized hereunder shall constitute a violation of his section. PZB may issue a Cease and Desist Order or withhold a Certificate of Occupancy until the provisions of this section have been met.

1. **Fines.** Violations of the provisions of this section shall be punishable by:
   a. Such fines and site improvements as may be required by the Palm Beach County Code Enforcement Citation Ordinance (Ord. No. 91-15);
   b. A fine not to exceed $500.00 per violation;
   c. Imprisonment, in the County jail, not exceeding sixty (60) days; or,
   d. Such fines and imprisonment contained in b. and c. above pursuant to the provisions of Sec. 125.69, Fla. Stat.

2. **Violations.** The following deficiencies shall be considered a separate and continuing violation of this section:
   a. Each tree or shrub which is not properly installed or properly maintained on site as required by this section; and,
   b. Each day in which landscaping is not properly installed or properly maintained on site as required by this section.

3. **Restoration and maintenance.** Landscaping which becomes damaged or diseased, or is dead shall be immediately replaced to comply with the PZB approved landscape plan or with the requirements of this section to the greatest extent possible (if a PZB approved landscape plan is not on file).

4. **Review board.** Violations of this section may be referred by PZB to the Palm Beach County Code Enforcement Board for corrective actions and civil penalties.

5. **Additional sanctions.** The County may take any appropriate legal action, including, but not limited to, administrative action, requests for temporary and permanent injunctions, and other sanctions to enforce the provisions of this Section.
6. **Zoning Map.** The site shall be clearly delineated.

7. **Justification.** Written description of proposed use and list of existing vegetation.

[Ord. No. 93-4; February 16, 1993] [Ord. No. 93-17; July 20, 1993] [Ord. No. 94-23; October 18, 1994] [Ord. No. 95-8; April 3, 1995]

SEC. 7.4. Reserved for future use. [Ord. No. 95-24; July 11, 1995].

SEC.7.5VEGETATION PRESERVATION AND PROTECTION.

A. Purpose and legislative intent.

1. **Purpose.** This section establishes an administrative review and permitting process to prohibit the unnecessary removal or destruction of existing native upland vegetation and require the eradication of certain invasive non-native plant species by:

   a. Limiting the removal of vegetation from a site until the approval of a bona fide site development plan;

   b. Requiring the establishment of preserve areas for a portion of native upland vegetation;

c. Preserving and incorporating specimen trees into the site design;

d. Ensuring that agricultural clearing has an agricultural designation on the Land Use Atlas; and

e. Prohibiting the clear cutting or total removal of native vegetation from a site.

2. **Legislative intent.** It is the intent of the Board of County Commissioners to provide for the health, safety and welfare of the residents of Palm Beach County by encouraging beneficial land and forest management practices. The minimum standards and administrative procedures established by this section help achieve these goals by:

a. **Conserving environmental resources.** Existing trees and vegetation, individually, in significant grouping, or in natural ecosystems, are essential elements of Palm Beach County's environmental heritage; and

b. **Serving functional values.** Trees and vegetation serve a number of invaluable environmental, economic, social, educational and aesthetic functions, including:

(1) Maintaining air quality through photosynthesis;
(2) Maintaining permeable land areas for aquifer recharge and surface water filtration;
(3) Reducing and reversing air, noise, heat, and water pollution;
(4) Promoting energy conservation through the creation of shade, reducing heat gain in or on buildings or paved areas, and reducing the temperature of the microclimate through evapotranspiration;
(5) Reducing erosion by stabilizing the soil;
(6) Providing habitat and corridors for wildlife;
(7) Providing direct and increasingly important psychological and physical benefits to human beings by reducing noise and glare, breaking up the monotony, and softening the harsh aspects of urban development;
(8) Serving as educational, aesthetic, historic, and cultural resources;
(9) Buffering and providing a transition area between otherwise incompatible types of development;
(10) Increasing the economic value of land by serving as a capital asset when properly incorporated into site design; and
(11) Promoting the use of plant species native to South Florida through relocation and installation.

c. **Preventing destructive land development practices.** The land clearing practices of grubbing or clearcutting of lots without a bona fide site development plan or a comparable preservation management plan, may result in the removal of native upland vegetation which may have otherwise been preserved or relocated.

B. **Applicability.** The provisions of this section shall apply within the unincorporated areas of Palm Beach County and shall set restrictions, constraints and requirements to protect and preserve native upland vegetation. It is a violation of this section to alter native upland vegetation without first obtaining a vegetation removal permit unless expressly exempt under the provisions set forth in this section. This section shall apply to the alteration of non-native vegetation, native upland vegetation, and preserve areas. This section is intended to complement and not conflict with other County, State and federal environmental regulations. However, in cases of conflict, the more restrictive regulations shall apply to the extent of the conflict.

C. **Authority.** This section is adopted under the authority of Chapter 125, Fla. Stat., and the Palm Beach County Comprehensive Plan, as amended, particularly the Conservation and Coastal Zone Elements, among other goals and objectives. These elements recognize the significance of all native vegetation and provide for its protection and enhancement by requiring the adoption of new codes and ordinances to revise, broaden and strengthen existing environmental laws.

D. **Exemptions.** The following activities are exempt from the vegetation removal permitting process:

1. **Single-family or two (2) residential units with a building permit.** Lots supporting single-family or two (2) residential unit or the initial construction of a single-family residence or two (2) residential units and their accessory structures with a building permit upon a single lot of less than two and one-half (2.5) gross acres in size are exempt. However, single-family and two (2) residential unit housing on lots below the two and one-half (2.5) acreage threshold shall comply with the minimum tree planting requirements pursuant to Sec. 7.3 and with the following standards of this section:

   a. Sec. 7.5.A.1 & 2, Purpose and Legislative intent, except establishing preserve areas;

   b. Sec. 7.5.G.6.a, Minimum vegetation removal and

   c. Sec.7.5.H.1. & 2., Prohibited plant species: Plant list; and Removal and site inspections.

2. **Enlargement or repair.** The enlargement or repair of an existing single-family or two (2) unit residential building and accessory structures regardless of the size of the lot, as long as the activities are consistent with the original approval or permit;

3. **Land surveyor.** The minimal removal of trees or understory by a Florida licensed land surveyor necessary for the performance of his or her duties. The swath cleared shall not exceed five (5) feet in width and hand clearing shall be used to remove vegetation. If survey lines greater than five (5) feet in width are required, PZB shall be notified and a permit shall be required;

4. **Public and Private Utilities.** Any alteration, to design specifications, pursuant to the direction of public or private utilities, water control district, or water management districts within drainage easements where the vegetation is interfering with drainage, or service established by public or private utilities, water control districts, or water management districts;

5. **Natural emergencies.** The provisions of this section may be suspended or waived by the Executive Director of PZB during a period of officially declared emergency, such as a hurricane, a windstorm, a tropical storm, flood or similar disaster;

6. **Forest management activities.** Selective tree removal for forest management activities as defined in the current Forest Management Plan as approved by Florida Division of Forestry for that specific site;

7. **Botanical gardens, botanical research centers, or licensed commercial nurseries.** A Bona Fide Agricultural production exemption permit is required only for the initial clearing of these sites. Subsequent harvesting or other plant removal shall not require a vegetation removal permit;

8. **Parks and Recreation.** Alterations or activities associated with the adopted management plan for government maintained parks, recreation areas, wildlife management areas, conservation areas and preserves;

9. **ERM.** The removal of vegetation by ERM or their agents for the purposes of environmental enhancement or environmental restoration.

10. **Environmental/Conservation Organization**. A not-for-profit organization which is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code shall not be required to obtain a permit under the provisions of this Section, for the creation of trails by such organization to be used solely for passive recreational purposes. However, no clearing or other activity in furtherance of creating a trail shall occur before such organization submits a master plan of the proposed trail(s) to PZB and ERM and has received written approval from the Directors of PZB and ERM; and

11. **Vegetation Removal**. Vegetation removal required pursuant to the Lot Clearing Ordinance (Ordinance No. 92-13), as amended, or by a public law enforcement agency directive or order pursuant to necessary law enforcement activity shall be exempt from the provisions of this Section. However, prior to any vegetation removal, the property owner shall provide to the Zoning Director sufficient documentation to determine the applicability of the specific law, ordinance, or other authority that is being relied upon, a written description of the extent of vegetation removal, and written evidence assuring that native upland vegetation or specimen trees will not be destroyed or harmed.

E. **Permits.**

1. **Types of vegetation removal permits**. PZB may issue the following permits for the preservation, relocation or removal of vegetation:

   a. **Bona Fide Agricultural permit**. A permit issued for lots which will support agriculture uses meeting the definition of a Bona Fide Agricultural use and having a land use designation of Agricultural Production (AP), Special Agricultural (SA), Rural Residential 10 (RR10), or Agricultural Reserve (AGR) on the Land Use Atlas;

      (1) **Existing Bona Fide Agricultural permit**. An existing agriculture use which meets the ULDC definition of a Bona Fide Agricultural use and is located outside of an agricultural Comprehensive Plan Land Use Category shall be considered a minor non-conforming use.

      (2) **Expansion of an existing agricultural site**. The expansion of an existing agricultural site which is a minor non-conforming use shall comply with the requirements of Sec. 1.7.B., Minor non-conforming uses and shall receive a Bona Fide Agriculture permit prior to any land clearing of the expansion area.

   b. **Type I permit**. A permit issued for lots which will support a single family residence or two (2) residential units located on a lot two and one-half (2.5) acres or larger;

   c. **Type II permit**. A permit issued for lots which will support: a multi-family residential building (3 or more residential units); a commercial use; an industrial use; or other uses not covered by a Type I permit or Bona Fide Agricultural permit; and

d. **TAO - Temporary Agricultural Operation**. Sites which comply with the requirements of Sec. 6.4.D. for a TAO and this section, and which receive a special permit for a TAO from PZB may apply for a Type II permit to remove vegetation. The type of vegetation removal permit conditions required for a TAO shall depend upon the underlying land use or uses approved for the subject site. A TAO special permit grants permission for a temporary agricultural use only and shall not receive a Bona Fide Agricultural Permit.

e. **General Permit**. A General permit may be issued only for the removal of prohibited and invasive non-native plant species as defined by Sec. 7.5.H.1 and 5. The General permit only shall be issued in conjunction with a building permit or to sites that have existing building permits sites with approved site plans or sites which otherwise meet the purpose and intent of this section to eradicate prohibited plant species.

2. **Permit application procedures and requirements**. PZB shall provide the application forms to be used by permit applicants. An owner or agent of the owner may apply for a vegetation removal permit and shall specify the type of permit desired; i.e., Bona Fide Agriculture, Type I, Type II or General permit. PZB may require that specific site plans be prepared by a landscape architect, architect, or engineer registered in the State of Florida, or an environmental professional certified by the National Association of Environmental Professionals.

   All application submittals shall include the following information:

   a. **Application form**. An application form shall be completed, signed, and notarized by the property owner or agent of the owner. If the application is submitted by an agent, it shall include a notarized agency agreement clearly indicating that the property owner has delegated full authority to apply for the permit and to accept the terms of any special conditions which may be imposed by PZB or ERM. The application shall include the name, address, and telephone number of the lot owner and the owner's agent;
   b. **Aerial**. A recent high resolution aerial photograph of a scale not less than 1:200 (a scale of 1:50 is preferred; Palm Beach County Blueline Aerial is acceptable);

   c. **Vegetation inventory**. A Vegetation inventory and site assessment which shall consist of:

      (1) **Vegetation survey**. The survey shall show the location, types and extent of vegetation upon the site and shall be based upon current (less than one [1] year old) information.
         (a) **Type II and Bona Fide Agricultural permit applications.** The survey shall be in the form of an aerial or a field survey and shall be accompanied by photographs illustrating the areas and types of vegetation.
         (b) **Type I permit applications.**
            i) The survey may be in the form of a plot plan accompanied by photographs of existing vegetation and site conditions. If site development plans have been prepared, the generalized vegetation survey shall be prepared to the same scale or in some other manner which clearly illustrates the relationships between areas of vegetation and proposed site improvements. If no site development plans are available, the generalized vegetation survey shall be prepared to a convenient scale which clearly shows the extent of vegetation upon the site;
            ii) For single family and two (2) residential units on lots four (4) acres or greater that require the setting aside of a preserve area, ERM shall complete the site assessment needed to make an evaluation of the proposed development project and the location of the preserve area.

(2) **Listed species**. Type II and Bona Fide Agricultural permit applicants shall submit a list of species classified by one or more of the following agencies:
   (a) U.S. Fish and Wildlife Service;
   (b) Florida Game and Fresh Water Fish Commission;
   (c) Florida Committee on Rare and Endangered Plants and Animals;
   (d) Florida Department of Agriculture and Consumer Services; and
   (e) Treasure Coast Regional Planning Council;

as rare, threatened, or endangered, or species of special concern, and habitats which have been designated as regionally rare or endangered which exist or are likely to exist on site.

(3) **Specimen tree**. Type I, Type II and Bona Fide Agricultural permit applications shall list and identify those trees that meet the specimen tree definition. Specimen trees shall be preserved and incorporated into the design of the site development plan. If the applicant requests the removal of a specimen tree, PZB shall determine that the following conditions exist:
   (a) **Relocation.** Specimen trees may be relocated, only if there is no construction alternative which allows the incorporation of the tree into the site design; or
   (b) **Removal.** Specimen trees may be removed only under the following circumstances:
      i) The tree cannot be relocated as determined by PZB;
      ii) The tree is fatally diseased; or
      iii) The tree endangers the health, safety, or welfare of the public.

(4) **Bona fide site development plan**. Graphics shall be submitted which illustrate the design of the site, including but not limited to the following items:
   (a) A footprint of the proposed site development, including buildings, roadways, parking areas, existing and proposed grades, utilities, septic drainfields, water bodies, flood control structures, stormwater systems, wellfield locations, preserve areas, landscape areas, and other pervious areas. The site development plan shall be at the same scale as the submitted vegetation overlay;
   (b) Paving and drainage plans;
   (c) Site location and existing zoning; and
   (d) A statement of the status of existing development approvals, including permit applications.

(5) **Written assessment**. Type II and Bona Fide Agricultural permit applicants shall submit a written assessment of the plant communities which have been identified on the site. The written assessment shall include an evaluation of the character and quality of the identified plant communities, including their rarity, viability, and such other physical characteristics and factors which may affect their preservation. The assessment and evaluation shall be prepared by the Palm Beach County Soil and Water Conservation District or by a person knowledgeable in the identification and evaluation of vegetative resources, such as a forester, biologist, ecologist, horticulturist, landscape architect, or other persons having similar recognized skills and experience.

d. **Preserve area**. For permits that require setting aside at least twenty-five (25%) percent of the total native upland habitat on site as a preserve, see Sec. 7.5.K.

e. **Sufficient copies**. The minimum number of copies of application requirements needed to administer this section shall be provided to PZB and ERM as indicated on the application form.

f. **Fees**. Permit fees shall be paid to PZB at the time that the application materials are submitted. Fees are nonrefundable and nontransferable.

g. **General Permit**. Application submittals for a General permit must include the following items:

(1) **Application form.** See Sec. 7.5.E.2.a.
(2) **Aerial.** See Sec. 7.5.E.2.b.
(3) **Vegetation Survey.** The survey shall show the location, types and extent of prohibited and invasive non-native vegetation on the site and shall be based upon current (less than one (1) year old) information.
(4) **Plans.** The plans shall clearly outline the extent of the proposed removal, the methods to be used for removal, the methods to restore the area to minimize reseeding by exotics, and the methods to be employed to minimize damage to existing native vegetation.
(5) **Sufficient Copies.** See Sec. 7.5.E.2.e.
(6) **Fees.** See Sec. 7.5.E.2.f.

3. **Application sufficiency review**. PZB and ERM shall review and evaluate permit applications for sufficiency of information. If the information received from an applicant is not adequate to review a vegetation application, PZB or ERM may require that additional information be submitted to complete the review (e.g. tree survey, range plan, vegetation holding area plan, burn plan, etc.), prior to the final recommendation for approval or denial.

4. **Permit issuance**. All permits may be approved with conditions (see Sec. 7.5.G.6.) and shall be issued in the following manner:

a. Type I and II permits shall be issued in conjunction with a building permit or a Land Development permit; and

b. Bona Fide Agricultural permits shall be issued within twenty (20) working days following receipt of a completed application; and

c. A General permit shall be issued provided that the applicant provides to ERM or PZB reasonable assurance that the proposed project will not adversely affect the native vegetation on site and the site with the plans has been field verified by PZB and/or ERM staff.

[Ord. No. 93-4]

F. Site inspections. PZB in coordination with ERM shall verify that the site meets the requirements for the permit applied for; and either or both Departments may conduct the following site inspections:

1. **Pre-clearing inspection.** An inspection conducted prior to issuance of a vegetation removal permit to identify, including but not limited to: preserve areas, landscape buffers, and relocatable vegetation;

2. **Clearing inspection**. An inspection conducted following issuance of the vegetation removal permit and immediately prior to clearing operations, to assure proper understanding of and compliance with the requirements of this section and any permit conditions as they relate to a specific site;

3. **Post-clearing inspection**. An inspection conducted after clearing operations are completed to verify compliance with vegetation removal permit conditions;

4. **Annual preservation inspection**. An inspection conducted by ERM to ensure and verify compliance with vegetation removal permit conditions related to the preserve area management plan; and

5. **Additional inspections**. Additional inspections may be required prior, during or after the clearing operations to assure compliance with requirements set forth in this section.

G. Site development requirements. The following pre-development conditions shall be required for all vegetation removal permits:

1. **Preserve areas.** For sites requiring a preserve area see Sec. 7.5.K.

2. **Prohibited storage or access**. Vehicles, structures, supplies, heavy equipment, light equipment, fill material, construction materials, concrete, paint, chemicals, or other foreign materials shall not be placed, stored, deposited, utilized or disposed of within preserve areas unless allowed by vegetation removal permit conditions.

3. **Vegetation damage and replacement**. Trees in preserve areas or in areas designated for landscaping which are accidentally destroyed or damaged during construction activities shall be replaced by the developer with the same species of tree or acceptable alternative species as determined by PZB in coordination with ERM as referenced in this section and Sec. 7.3, Landscaping and buffering and by Table 7.3-4 Tree Credits.

4. **Erosion control**. Measures shall be taken to prevent detrimental effects of erosion resulting from site alterations. Areas prone to erosion shall be stabilized as required in Sec. 7.3, Landscaping and Buffering.

5. **Tree protection manual**. Site development activities shall comply with the standards of the Tree Protection Manual for Builders and Developers, as amended, which is available from the Florida Department of Agriculture and Consumer Services.

6. **Permit conditions**.

a. **Minimum vegetation removal**. The extent of approval to remove native vegetation shall be limited to the minimum necessary to accomplish the purpose of the Bona fide site development plan. This may include limiting the extent of approval for vegetation removal to portions of a site or specifying special conditions by which removal shall take place. Such limitations shall be clearly indicated in writing in the vegetation removal permit conditions. If vegetation removal is limited to portions of a site, the extent of such limitation shall be clearly delineated on a site development plan. Surety may be required as a condition of approval.

b. **Vegetation protection standards**. The following minimum standards shall be applied to any area of vegetation designated for protection by this Section:

(1) **Protective barriers**. Barriers as required by PZB or ERM shall be constructed to protect preserve areas or areas of native upland vegetation, and areas of relocatable native vegetation prior to any construction or site preparation activities to prevent soil compaction and vegetative damage.

(a) **Individual trees or shrubs**. A suitable protective barrier, constructed of metal, wood, or other durable material, shall be placed around individual protected trees, as follows:

i) A distance of twelve (12) feet or greater or at a distance that is double the radius of the dripline, whichever is greater, from all protected mangroves, hardwoods, and conifers; or

ii) As otherwise provided in the special conditions attached to a vegetation removal permit.

(b) **Groups of trees or vegetation**. Unless otherwise provided by law or in the terms of special conditions included in a vegetation removal permit, groups of protected trees or areas of vegetation to be preserved shall not require protective barriers. However, such areas shall be prominently highlighted by the installation of stakes installed a maximum of fifty (50) feet apart. Ropes, plastic tape, ribbons, or similar material shall be attached to the vegetation or stakes around the perimeter of the protected area. Marking materials shall be protective and non-damaging to the vegetation intended for protection. Special care shall be taken to prominently indicate the limits of the preservation areas so that equipment operators can see the limits of vegetation removal activity.

(c) **Duration**. Protective barriers shall remain in place until they are authorized to be removed by the Zoning Director or until receipt of a final certificate of occupancy.

(2) **Grade changes or soil removal**. Excavation, trenching or other site activities which may harm or cut roots is forbidden, except in compliance with the terms of special conditions from a vegetation removal permit.

(3) **Attachments**. Signs, permits, wires, or other attachments, other than those of protective and non-damaging nature, shall not be affixed or attached to protected vegetation.

(4) **Temporary buildings**. Temporary buildings, including but not limited to, construction trailers, and sales trailers, shall not be driven, parked, or stored within protected vegetation areas.

H. **Prohibited plant species**. Prohibited plant species, as defined below, shall be removed in their entirety concurrent with vegetation removal and site development. The following regulations shall apply to prohibited plant species:

1. **Plant list**. The following plant species shall be removed and any installation of these species is prohibited:

   a. *Melaleuca quinquenervia* - Melaleuca;

   b. *Schinus terebinthifolius* - Brazilian pepper;

   c. *Casuarina* spp. - Australian pine; and

   d. *Acacia auriculiformis* - Earleaf acacia

2. **Removal and site inspections**. Prior to a final certificate of occupancy for a building permit, a site inspection will be conducted by a County inspector to verify the removal of all prohibited plant species from the permitted area. Periodic removal of prohibited species may be required to prevent their re-establishment on site.

3. **Phased development**. The applicant shall be required to remove prohibited species within each phase prior to receipt of a certificate of occupancy for the first building permit for each phase.

4. **Phased removal**. Lot owners who qualify for a Type I Vegetation Removal Permit may request a two (2) phase prohibited species removal program by complying with the following requirements:

   a. The lot has a gross area of five (5) acres or more;

   b. Fifty (50) percent or more of the lot supports prohibited plant species;

c. A site survey shall be submitted showing a phase line separating the site into two phases;

d. The prohibited plant species shall be removed from phase one prior to a final certificate of occupancy for a building permit; and

e. The prohibited plant species shall be removed from phase 2 within one-hundred eighty (180) days of the final certificate of occupancy for phase 1.

5. Preserve Area - Removal of Invasive Non-Native Plants.

The following conditions shall apply to the prohibition and removal of invasive non-native plant species:

a. Invasive non-native plant species.

The following shall be considered the official list of invasive non-native plant species and the list may be updated by ERM. These plants shall be removed in their entirety from the entire property as well as from the preserve area:

Albizia lebbeck	Woman's tongue	Tree
Ardisia solanaceae	Shoebutton ardisia	Shrub
Bischofia javanica	Bishop-wood	Tree
Colubrina asiatica	Lather leaf	Vine
Cupaniopsis anacardioides	Carrotwood	Tree
Dioscorea bulbifera	Air potato	Vine
Ficus altissima *	Lofty fig	Tree
Ficus bengalensis	Banyan	Tree
Hibiscus tiliaceus	Mahoe	Tree
Jasminum dichotomum	Jasmine	Shrub
Lygodium microphyllum	Small-leaved climbing fern	Fern
Mimosa pigra	Cat's claw	Shrub
Rhodomyrtus tomentosus	Downy rose myrtle	Shrub
Sapium sebiferum	Chinese tallow tree	Tree
Syzygium cumini	Java plum	Tree
Thespesia populnea	Cork tree	Tree

*Plants may be grown only under greenhouse or shadehouse conditions for use as indoor houseplants.

b. **Prohibition.** The installation of invasive non-native plant species into any preserve area in Palm Beach County is prohibited. The Mounts Botanical Gardens may keep individual specimens for education purposes.

c. **Removal.** All invasive non-native plant species, as defined by Sec. 7.5.H.5.a., shall be removed from the entire site including the preserve area prior to the issuance of a certificate of occupancy with the inclusion of stipulations requiring invasive non-native plant species removal within the time constraints of the Permit. Periodic removal of non-native species is required to control regeneration of these species.

d. **Verification of Removal**. No certificate of occupancy or other official acceptance of completed work shall be issued for development until verification is provided, through inspection by ERM, that all required removal of invasive non-native plants has been completed and is in accordance with the development plan or phasing plan and permit conditions.

I. **Vegetation relocation.** Native upland vegetation existing in areas proposed for development on a site plan shall be relocated on site to landscape areas using best industry practices to maximize survival potential.

1. **Voluntary vegetation salvage.** Native upland vegetation which cannot be transplanted on site is encouraged to be offered for donation or be sold by the applicant. This provision is applicable to Type II or Bona Fide Agriculture vegetation removal applications. The applicant shall justify that the landscape areas on site support the equivalent of one (1) tree per eight hundred (800) square feet of landscape area, unless waived by the Zoning Director.

a. **Applicant.** The applicant shall:

(1) Attach to the permit application a list of the available vegetation and the species names and approximate quantity of each species;
(2) Physically mark (so that no inadvertent destruction occurs) available vegetation on site to afford easy identification;
(3) Relocate vegetation designated for salvage to a holding area and replant and maintain to ensure survival, if it is in immediate conflict with site construction activities;
(4) Coordinate the salvage of vegetation on site with ERM and the recipient; and
(5) Allow for the vegetation to remain available for removal, sale or donation for at least twenty (20) working days after vegetation has been identified by the County.

b. **ERM.** ERM shall:

(1) Maintain a list of persons interested in salvaging native plant species. The list shall be available to an applicant upon request; and
(2) With the applicant's consent, ERM shall post the list of the site and available vegetation for public viewing.

2. **Vegetation disposal.** ERM shall be informed in writing of the manner of disposal of all surplus vegetation. Vegetation which cannot be donated or sold shall be:

a. Chipped and used for mulch;

b. Utilized for wood or paper products;

c. Disposed of at an approved disposal facility; or

d. Disposed of by other disposal methods such as, but not limited to, open burning or air curtain burning with approval and permits from the appropriate fire authority, the Division of Forestry, and the PBCPHU.

J. **Permit expiration.** Vegetation removal permits shall automatically expire and become void within one-hundred eighty (180) days after the issuance date of the permit.

1. **Extension of permit.** A permit may be extended for one-hundred eighty (180) day period, provided the applicant receives extension approval prior to expiration of the permit.

2. **New permit required.** If a vegetation removal permit expires or is revoked after work has commenced, a new permit shall be obtained before work is resumed. A new application and permit fee will be required.

3. **Permit prominently displayed.** The permit shall be prominently displayed upon the site.

4. **Permit transfer.** Permits may be transferable upon prior written notice to PZB and ERM of the transfer and verification of property ownership providing the use of the land does not change.

K. Preserve areas. Lots supporting native upland vegetation which are required to receive a bona fide agricultural permit for commercial agricultural development, a Type I permit or a Type II permit shall propose a location for a preserve area to be maintained in perpetuity that consists of a minimum of twenty five (25%) percent of the total native upland habitat that occurs on site. Applicants are required to arrange a pre-application meeting with ERM for this purpose, prior to submitting a building permit application.

1. **Exclusions.** The following conditions may wholly or partially exempt a lot from establishing a preserve area on site:

   a. **Non-native vegetation.** Lots which do not support native upland habitat vegetation, as field verified by ERM or verified by a recent aerial.

   b. **Type I permits.** Applicants for Type I permits with lot areas of less than four (4) acres.

   c. **Environmentally sensitive lands .** Lots which have met the preserve area requirements of Sec. 9.2, Environmentally Sensitive Lands, may credit this preservation area towards satisfying the preserve requirements of this section.

   d. **Previous government approvals.** Lots which have been issued one of the following government approvals prior to the adoption date of this Code; the approval has not expired; and a substantial change in land use to the development plan has not occurred after the effective date of this section:

      (1) A building permit;
      (2) A site plan;
      (3) A recorded subdivision plan approval;
      (4) A valid development order for a Development of Regional Impact; or
      (5) A sufficiency notification for a Development of Regional Impact.

2. **Procedure.**

   a. **Vegetation assessment and evaluation.** An assessment and evaluation of the plant species on site shall be submitted as part of the permit application in accordance with the vegetation inventory requirements contained in Sec. 7.5.E.2.c (Vegetation inventory). It shall include, but not be limited to, the following detailed information:

      (1) Past and present land uses;
      (2) Vegetative communities on and adjacent to the site;

(3) Existence and extent of invasive non-native species on and adjacent to the site; (See Sec. 7.5.H.5.a, Invasive Non-native Plant Species);
(4) Specimen size trees located on the site; and
(5) Listed plant and animal species which may occur on the site.

b. **Single family lots.** For single family and two (2) residential units on lots of four (4) acres or greater that require the setting aside of a preserve area, ERM shall complete the site assessment needed to make an evaluation of the proposed development project and location of the preserve area.

c. **Site Visit.** A site visit shall be coordinated with ERM to verify site conditions and to determine the location of the preserve area to be established.

d. **Designation.** ERM shall have the option to designate the portion of the native upland vegetation which will be included in the twenty-five (25) percent set aside for a preserve area. In determining the location of the preserve area, ERM shall consider the relative qualities of the undisturbed ecosystems present on site. Preference shall be given for the highest quality native upland habitats. The assessment and evaluation will be based on the habitat quality, biological diversity, and the following additional parameters:

(1) **Listed species and regionally rare or endangered habitat concerns.** Preference in locating the preserve area shall be given to native upland plant communities which support listed species. Criteria established by federal and state agencies must be complied with regarding listed species. Priority shall also be given to native upland plant communities considered as regionally rare or endangered which include, but are not limited to, sand pine/scrub oak associations, tropical hammock associations, and turkey oak associations; and
(2) **Wildlife corridors.** All reasonable efforts shall be made to link preserve areas or open space on adjacent lands and in existing major wildlife corridors.

e. **Review.** The purpose and intent of the Native Ecosystem Overlay (NE-O) district is to ensure the protection of environmentally sensitive lands in unincorporated Palm Beach County, while ensuring development options by permitting flexibility in development regulations. The applicant may request the preservation area to be reviewed under the provisions of Sec. 6.7.A, Overlay District Regulations (Native Ecosystem Overlay).

f. **Management plan requirements.** Prior to issuance of a vegetation removal permit, a written management plan shall be submitted to and receive written approval from ERM. The management plan shall contain information outlining methods to be implemented that will ensure compliance with the long-term goals, objectives, and requirements of this section.

g. **Management plan.** The intent of the management plan is to assure the viability and integrity of preserve areas through long-term maintenance and protection of these areas. At a minimum the preservation management plan shall include a program for ensuring:
(1) Detailed site descriptions;
(2) Long term protection of the native upland vegetation;
(3) Eradication and the continued removal of invasive non-native plant species;
(4) Continued removal of and protection from litter and debris;
(5) Control of erosion;
(6) Avoidance of site alterations which may degrade the preserve areas; and

(7) Maintenance of hydrological requirements of the preserve.

h. **Easements**. Drainage or other types of easements shall not be located within the boundaries of a preserve area unless allowed by vegetation removal permit conditions.

i. **Land use activities.** Land use within the preserve areas shall be limited to passive recreation.

j. **Preserve Dedication.** Preserve areas shall be identified and dedicated as a preserve on any plats required for the development and a copy of the plat shall be submitted to ERM prior to any development or vegetation removal, whichever shall occur first. In the event a plat is not required, applicant or owner shall execute a conservation easement on the preserve, consistent with the requirements of Sect. 704.06, Fla. Stat., 1991 as amended from time to time, to Palm Beach County. The conservation easement approved by the County Attorney shall be recorded in the public records of Palm Beach County and proof of the recording shall be submitted to ERM prior to any development or vegetation removal.

k. **Survey.** Prior to any site alterations, the preserve area shall be visibly marked on site, surveyed with a certified survey submitted to ERM and have approved barricade and erosion control materials in place.

l. **Monitoring program.** On an annual basis the applicant shall submit an affidavit verifying compliance with the preserve management plan and conditions. ERM will conduct a site visit to verify compliance.

3. **Upland native vegetation outside preserve areas**. Existing native upland vegetation outside of preserve areas shall, to the extent possible, be incorporated into development plans as buffers, open spaces, or landscaping, and shall conform to the landscape and buffer standards of Sec. 7.3.

4. **Waiver.**

a. **Cash payment option**. ERM shall have the option of granting a waiver for the establishment of a preserve area for lots which comply with all of the following conditions:

(1) **Waiver request**. Prior to approval for a cash payment option, the following site conditions and requirements must be met:

(a) The request must be submitted prior to Development Review Committee approval or issuance of a building permit;

(b) A cash payment must be made payable to the Palm Beach County Board of County Commissioners to be deposited in a trust fund for the acquisition, preservation, and management of off-site native upland vegetation; and

(c) A site inspection by ERM shall be made to verify that listed species do not exist on the site.

(2) **Trust fund**. ERM shall have the option of accepting a cash payment in lieu of preservation and shall accumulate such payments in a trust fund for the acquisition, preservation, and management of off-site native upland vegetation.

(a) **Appraised value**. The cash payment shall be at least equivalent to the average per acre appraised value, at the time of permit application, multiplied by the number of acres proposed to be deleted from the preserve.

(b) **Approval option.** In determining the availability of the cash payment option for a particular project, ERM shall consider the size and quality of the preserve area that would otherwise be required.

(c) **Payment.** The cash payment shall be provided to ERM prior to any alteration or development activities.

(d) **Waiver.** An applicant requesting a waiver of the preserve requirement shall comply with all of the terms and conditions as set forth in Sec. 7.5.I.

(3) **Commercial agriculture option.** The option for cash payments in lieu of preserve areas for commercial agriculture lots may allow for commencement of site development prior to submittal of the cash payment through compliance with the following requirements:

(a) **Deed restriction or covenant.** A deed restriction or covenant shall be placed on the lots which limits their use to commercial agriculture and the property owner agrees to make the cash payment to the Board of County Commissioners at the time that the site is converted to a nonagricultural land use; and

(b) **Appraised value.** The cash payment shall be calculated based on the appraised value at the time of conversion.

[Ord. No. 93-4]

L. Enforcement. Failure to comply with the requirements of this section or any permit or approval granted or authorized hereunder shall constitute a violation of this section. PZB or ERM may issue a Cease and Desist Order or withhold a Certificate of Occupancy until the provisions of this section have been met.

1. **Fines.** Violations of the provisions of this section shall be punishable by:

a. A triple permit fee for clearing without a valid permit;

b. A fine not to exceed $500.00 per violation;

c. Imprisonment, in the County jail, not exceeding sixty (60) days; or

d. Such fines and imprisonment contained in b. and c. above pursuant to the provisions of Sec. 125.69, Fla. Stat.

2. **Violations.**

a. A minimum violation of this section shall be the unauthorized alteration or removal of one (1) specimen tree; or the unauthorized alteration of native upland vegetation in any manner defined by this Section, of up to fifteen hundred (1,500) square feet in extent.

b. Alteration or removal of each additional specimen tree and/or alteration of each additional fifteen hundred (1,500) square feet tract of native upland vegetation or portion thereof in violation of this section shall constitute a separate violation.

c. Cumulative violations shall be determined by the addition of each 1,500 square feet tract of native upland vegetation or portion thereof, or alteration or removal of each specimen tree, whether altered in the same manner or in a different manner, as defined by this section.

3. **Restoration.** Damage to native upland vegetation may result in an order to restore to pre-existing site conditions.

4. **Review board.** Violations of this section may be referred by ERM or PZB to the Groundwater and Natural Resources Protection Board or Code Enforcement Board for corrective actions and civil penalties.

5. **Additional Sanctions.** The County shall take any other appropriate legal action, including, but not limited to, administrative action, requests for temporary and permanent injunctions to enforce the provisions of this Section.

[Ord. No. 93-4]

M. **Appeals.** An Applicant may appeal a final determination made by a Director of either PZB or ERM to the Environmental Ordinance Appeals Board pursuant to this Section. The applicant shall comply with the following appeal procedures:

1. **Submittal.** An appeal must be made within twenty (20) days of the applicant's receipt of the final action.

2. **Hearing.** Each hearing shall be held within sixty (60) days of submittal of all documents which the Environmental Ordinance Appeals Board deems necessary to evaluate the appeal.

   a. At the conclusion of the hearing, the Environmental Ordinance Appeals Board shall orally render its decision (order), based on evidence entered into the record.

   b. The decision shall be stated in a written order and mailed to the applicant not later than ten (10) days after the hearing.

   c. Written orders of the Environmental Ordinance Appeals Board shall be final.

3. **Judicial Relief.** An applicant, ERM or PZB may appeal a final written order of the Environmental Ordinance Appeals Board within thirty (30) days of the rendition of the written order by filing a petition for Writ of Certiorari in Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

N. **Variation from Minimum Property Development Regulations.** The Zoning Director may waive the following minimum property development regulations for the purpose of accommodating the preservation of existing native tree(s):

1. Up to five (5) percent of a required setback;

2. Up to five (5) percent of the required parking spaces.

This section may not be combined with any other section that allows variations from minimum property development regulations.

SEC. 7.6 EXCAVATION

A. **Purpose and intent.** It is the purpose and intent of this section to:

1. Regulate site development and land excavation practices which, individually or in cumulative effect, are destructive to Palm Beach County's natural resources;

2. Ensure that mining and excavation activities do not adversely impact the health, safety, and welfare of the citizens of Palm Beach County;

3. Deter the negative immediate and long-term environmental and economic impacts of poor land development practices;

4. Encourage the use of economically feasible and environmentally sound land development practices;

5. Preserve land values by ensuring that alteration of a parcel by non-commercial land excavation does not result in conditions that would prevent that parcel from meeting minimum Zoning Code requirements for other valid uses;

6. Encourage the incorporation of excavated sites into other beneficial uses by promoting economical, effective and timely site reclamation;

7. Protect existing and future beneficial use of surrounding properties;

8. Recognize that excess excavation material may be disposed of off-site provided that the excavation site is subject to a bona fide site development plan;

9. Establish a regulatory framework of clear, reasonable, effective, and enforceable standards and requirements for the regulation of excavation, mining, and related activities; and

10. Ensure that excavation and mining activities and resulting mined lakes are not allowed to become public safety hazards, and\or sources of water resource degradation or pollution.

B. **Applicability.** All mining and excavation activities within unincorporated Palm Beach County shall comply with the regulations established in this section and other State and local requirements, as applicable. The regulations of this section may be known as the "Palm Beach County Excavation Code."

1. Compliance with regulations of other applicable government agencies including but not limited to: the permitting process and standards of the SFWMD, Fresh Water Fish And Game Commission, DNR, DER, and ERM.

2. Where conflicts with applicable regulations occur, the more stringent regulation shall apply.

C. **Exemptions.** The following excavation activities shall be exempt from the requirements of this section:

1. Previously approved existing mined lakes which are:

   a. Regulated by a national Pollutant Discharge Elimination System Permit; or

b. Regulated by a Florida Department of Environmental Regulation industrial wastewater operation permit; or

c. Located within an approved residential, commercial, industrial or mixed-use development; utilize a minimum of 90% of the excavated material on site or receive approval to remove more than 10% of the excavated material from the site pursuant to Sec. 7.6.G.3.b.(2).(a) or (b); and function as a stormwater management facility pursuant to either:

(1) a surface water management permit or approval issued through the South Florida Water Management District; or
(2) an applicable County land development process depicting proposed littoral and upland slopes of a mined lake;

as long as the existing mined lake continues to meet the water quality standards contained in Chapter 17-302, F.A.C.

2. Swimming pools, as allow by Sec. 6.6.A.8. Swimming Pools and Clubs, commercial and private.

3. Small lily ponds, goldfish ponds, reflecting ponds, and other small ornamental water features with a maximum depth of four (4) feet OHW and not exceeding five hundred (500) square feet in surface area in conjunction with a valid building permit for a principal use.

4. Burial plots in approved cemeteries.

5. Excavations by Palm Beach County or the Florida Department of Transportation in the ultimate right-of-way of a road when that road is under construction.

6. Excavations for installation of utilities, including septic tanks.

7. The performance of repair, reconstructing, and maintenance dredging of existing non-tidal man-made canals, channels, control structures and associated riprap, erosion controls, and intake and discharge structures, where the spoil material is to be removed and deposited on a self-contained, upland spoil site which will prevent the escape of the spoil material and drainage from the spoil site into surface waters of the state, provided no more dredging is performed than is necessary to restore the canal, channels, and intake and discharge structures to original design specifications, and provided that control devices are used at the dredge site to prevent turbidity and toxic or deleterious substances from discharging into adjacent waters during maintenance dredging.

8. Canals of conveyance located in the West County Agriculture Area which are less than fifteen (15) feet in depth from OHW or canals that require permits from SFWMD, DER, or ERM pursuant to Sec 9.4.

9. Mitigation projects permitted by SFWMD, DER, or ERM, pursuant to Chapters 403 and 373, Fla. Stat., and Chapter 17-312, F.A.C., as amended, and Article 9 of this Code, including projects approved to implement an adopted Surface Water Improvement & Management (SWIM) plan.

10. All excavation activities that have received permits pursuant to Sec. 9.4 of this Code.

11. Agricultural ditches for vegetation production (i.e. groves, row crops, and tree farming) constructed solely in uplands that are less than six (6) feet in depth from OHW which meet the standards of bona fide agriculture (pursuant to Articles 3 and 6). These ditches shall not connect to canals of conveyance or waters of the State without the appropriate Federal, State, and Local approvals or permits.

[Ord. No. 93-4]

D. **Prohibited Excavations**. The following types of excavation activities shall be prohibited:

1. Excavation in any archaeological site until the find has been examined, recorded, and the preservation status is determined.

2. Type I (A) Sec. 7.6.E.1., Type I (B) Sec. 7.6.E.2., and Agricultural Sec. 7.6.E.3. excavations that require dewatering, unless otherwise permitted by a State or Federal permitting agency.

E. **Excavation Types**. Before commencement of any excavation, approvals shall be obtained pursuant to the procedures and standards of this section of the Code. The following excavation types are defined:

1. **Type I (A) excavation.** Type I (A) excavations shall be accessory to the construction of a single family residence with a lot area greater than one (1.0) acre. For excavation activities that meet these criteria see Sec.7.6.G.3 (Specific criteria for Type I (A) excavation).

2. **Type I (B) excavation.** Type I (B) excavation means excavation necessary for the creation of a pond which shall be accessory to a single family dwelling permitted by right in any zoning district on a lot greater than two and one half (2.5) acres. Sec.7.6.G.3 (Specific criteria for Type I (B) excavation).

3. **Agricultural excavation.** Agricultural excavation shall be permitted as a right in districts which permit bona fide agricultural production activities, provided the excavation is the minimum necessary to support the agricultural production operation, and the excavation activities comply with the procedures and standards of this subsection. For excavation activities that meet these criteria, see Sec. 7.6.G.1 (Specific Criteria for Agricultural Excavation).

4. **West County Agricultural Area (WCAA) Excavations.** All excavations required for bona fide agricultural activities located within the area bounded roughly by Lake Okeechobee, Palm Beach-Hendry County Line, and the South Florida Water Management District Levees L-4, L-5, L-6, L-7 and L-8 and has the agriculture production designation on the land use map in the land use element of the Palm Beach County Comprehensive Plan. For excavation activities that meet these criteria, see Sec. 7.6.G.2 (Specific Criteria for WCAA Excavations).

5. **Type II excavation.** Type II excavations shall be considered accessory to an activity for which a final site development plan has been approved. At a minimum, ninety (90) percent of the material to be excavated is to be used on-site. If less than ninety (90) percent of the material to be excavated is to be used on-site, special additional requirements listed in Sec.7.6.G.3.b.2. as applicable, must be met. For excavation activities that meet these criteria, see Sec. 7.6.G.3 (Specific Criteria for Type II Excavations).

6. **Type III excavation.** Type III excavation is permitted only after approval as a Class "A" Conditional use, pursuant to Article 5 (Class "A" Conditional use) and this section. For excavation activities that meet these criteria, see Sec. 7.6.G.4 (Specific Criteria for Type III Excavations).

[Ord. No. 93-4] [Ord. No. 95-8]

F. General Criteria For Excavations. The following criteria are general requirements for excavation activities except where specified or noted differently:

1. **Setbacks.** The mined lake shall not be constructed within:

   a. Wellfield Zone 1 or 300 feet from a public water supply well, whichever is more restrictive;

   b. Two hundred (200) feet from a wetland;

   c. Three hundred (300) feet from a Class I or Class II Landfill;

   d. Three hundred (300) feet from a site with known contamination;

   e. One hundred (100) feet from a sanitary hazard; or

   f. One hundred (100) feet from a private drinking water well.

2. **Sloping and Grading.**

   a. Sloping and grading shall be conducted in such a manner as to minimize soil erosion and to make the land surface suitable for revegetation. In order to enhance slope stabilization, enhance site aesthetics and maximize potential for beneficial end use of the reclaimed site, no slope shall be steeper than four (4) feet horizontal to one (1) foot vertical to existing grade. Slopes shall be adequately vegetated within thirty (30) days of final grading and thereafter maintained to prevent wind and water erosion.

   b. Overland sheet flow directly into the mined lake shall be minimized. Those areas within a maximum of fifty (50) feet of the mined lake may discharge run-off to the lake. Provided, however, that this restriction shall not apply to any catchment discharging runoff to a mined lake designated as a water management tract and incorporated in an approved stormwater management plan for treatment and control of runoff from a development site, where the boundaries of said catchment are delineated in the approved plan.

3. **Depth.**

   a. Due to chloride or other water quality considerations, the maximum depth of the mined lake shall be twenty (20) feet of water at OHW.

   b. The maximum depth of the mined lake shall be fifteen (15) feet OHW in the West County Agriculture Area, due to chloride considerations. This maximum may be exceeded if approved by ERM in writing if the applicant can provide adequate assurances that chloride levels shall not exceed two hundred and fifty (250) parts per million (PPM) within the mined lake based on ground water sampling prior to construction. Additional sampling may be required during and after construction.

   c. A sediment sump may be constructed at the mined lake inlet to a depth of twenty-five (25) feet OHW. However, this sump shall be no greater than 5% of the mined lake area.

4. **Littoral Zones.**

a. **Planted littoral zones** shall be provided which comprise, at a minimum, an area equivalent to eight (8) square feet per linear foot of shoreline. The required area of planted littoral zone may be created by extending contiguous littoral zone areas waterward or by creating islands within the water body; both options are encouraged. Any areas of planted littoral zone shall not be steeper than six (6) feet horizontal to one (1) foot vertical. The planted littoral zone can vary in elevation from a maximum elevation of +1 down to an elevation of -3 OHW. The maximum depth of the planted area shall be minus three (-3) feet from OHW. The littoral zone shall be provided with a minimum of three (3) inches of topsoil to promote vegetative growth. The littoral zone shall be planted with appropriate native wetland vegetation, spaced not more than three (3) feet on center or as approved by ERM.

b. **Unplanted littoral zone areas** shall not be steeper than four (4) feet horizontal to one (1) foot vertical to a minimum depth of minus two (-2) feet from OHW. The littoral zone shall be provided with a minimum of three (3) inches of topsoil to promote vegetative growth.

c. **Bulkheads** may be allowed, provided that for each linear foot of bulkhead, an additional eight (8) square feet of compensatory planted littoral zone shall be required. The compensatory planted littoral zone shall be provided in addition to the planted littoral zone required under (a) above; thus for every linear foot of bulkhead, sixteen (16) square feet of littoral shall be required.

d. **Slopes below a depth of minus two (-2), or minus three (-3) feet from OHW for planted littoral areas** shall not exceed two (2) feet horizontal to one (1) foot vertical or the natural angle of repose for the specific conditions encountered.

e. **Planting procedure and plans.** Plans shall be submitted to and receive written approval from the Director of ERM in conjunction with the Notice of Intent to Construct pursuant to Sections 7.6.G.1.b.(3), 7.6.G.3.b.(3), or 7.6.G.4.b.(3) final site plan certification. If no final site plan certification is required, written approval for plans shall be received. Plans shall be submitted at the time of the submission of the preliminary plat, or if no plat approval is involved, prior to commencement of construction, regrading, or modification. The plans shall detail the species of plants to be used, the location and dimensions of the littoral area, the location and dimensions of any structure for which a compensatory littoral area is required, the location and dimensions of the compensatory littoral area, the methods for planting and ensuring survival of the plants, and other reasonable matters required by the Director of ERM.

f. **Plans.** The design and species shall be such that the plants as shown on the plans have an anticipated survival rate of at least eighty (80) percent at the end of one (1) year after planting. The signatory of the plans and specifications shall have a personal familiarity with the site and soil conditions based upon a field review. The plans shall be signed and sealed by a professional recognized and approved by the Florida Department of Professional Regulation for this type of project. After the plans have been reviewed for compliance to the standards listed in section 7.6.F.4, the Director of ERM shall approve the plans in writing.

g. **List of plants.** The Director of ERM shall maintain a list of acceptable species of plants for use in littoral zones. The list may be amended for general application as more information becomes available. The list shall be open for public inspection and distribution.

h. **Timing of Planting.** Planting of the entire mined lake shall occur no later than immediately prior to the issuance of the first certification of occupancy for any lot adjacent to or abutting the bank of that lake. For large single lake systems, ERM may approve in writing a phasing plan for planting the

system that would allow lake planting to be phased. For multi-lake systems, each separate lake shall be treated individually for planting purposes. At all times, applicant is responsible for minimizing erosion of the littoral shelves until the planting is completed.

i. **Maintenance and monitoring.** The following maintenance and monitoring program shall be followed for all planted littoral zones.

(1) The littoral zone shall be inspected and monitored for one year after planting. During this one year maintenance and monitoring period, maintenance and monitoring shall occur 90, 180 and 360 days after planting. The maintenance and monitoring program shall consist of the following:

(a) Inspections, monitoring, exotic removal and replanting during each monitoring period to maintain the minimum eighty percent (80%) survivorship criteria for the planted littoral zone;

(b) Complete removal of exotic and invasive plant species such as cattails, primrose willows and water hyacinth, from the planted littoral zone until the required planted species attain coverage of seventy percent (70%) of the planted littoral zone.

(c) The submittal of a monitoring report to ERM representing a time zero monitoring, to be completed within thirty (30) days of initial planting; ninety (90) day, one hundred eighty (180) day and three hundred sixty (360) day monitoring reports, each report submitted to ERM within thirty (30) days of the completion of the monitoring period.

(d) Each monitoring report shall assess the species, numbers, locations of planted littoral zone shelves, and multiple photographs (panoramas are preferred) of the site clearly depicting the entire littoral zone planting. Photographs must be taken at approximately the same location(s) each time. In addition, the report shall detail the species, numbers and locations of additional plantings that were made to attain the eighty percent (80%) survivorship criterion, if such plantings were necessary.

(2) After the first year, the land owner or entity having maintenance responsibility for the planted littoral zone shall maintain the littoral zone in the following manner:

(a) A minimum of eighty percent (80%) survivorship and a minimum of seventy percent (70%) coverage of the planted littoral zone is required.

(b) Exotic and invasive plant species such as cattails, primrose willows and water hyacinth, shall be restricted to less than ten percent (10%) of the required planted littoral zone.

j. **Littoral area of record.** The littoral area shall be graphically or verbally identified on the applicable plat, or if the plat is already recorded or the property is not required to be platted, by a separate instrument to be recorded. Said area shall be specifically and separately reserved to owner, or if applicable, to the property owners' association as its perpetual maintenance responsibility, without recourse to Palm Beach County or other governmental entity or agency. The plat or instrument shall provide that the littoral area shall exist from the edge of water at OHW to a depth of not more than minus three (-3) feet and with sufficient square footage to comply with the provisions of this section. The plat or property owners association documents or other instrument of record shall contain the following statement:

> It is a punishable violation of Palm Beach County Laws, Ordinances, Codes, Regulations and approvals to alter the approved slopes, contours or cross sections or to chemically or manually remove, damage, destroy, cut or trim any plants in the littoral zone in the water management tract except upon the written approval of the Director of ERM. It is the responsibility of the owner or property owners association, its successors or assigns, to maintain the littoral zone(s).

k. **Repair, reconstruction modification.** Any repair, reconstruction, installation of structures or modification, except ordinary maintenance, to the water management tract, lake maintenance easement, littoral zone, or any planting or structure approved pursuant to this subsection, shall be done only after receipt of written approval from the Director of ERM pursuant to this subsection.

5. **Water quality.** The mined lake shall be designed and maintained to meet minimum criteria for surface water as set forth under Chapter 17-302, F.A.C..

6. **Hauling material off site.** All trucks hauling materials off-site shall be covered to prevent debris and fill from spilling on the road. The County Engineer may impose appropriate special conditions for Type II (that require removal of more than ten (10) percent excess fill off site) and III excavations to ensure compliance with the purpose and intent of this section.

7. **Objectionable odors.** The excavation activity shall be conducted in such a manner as to prevent the occurrence of water which creates objectionable odors.

8. **Existing topsoil.** Where feasible, existing topsoil shall be stored and redistributed on-site to provide adequate growing conditions for the revegetation of plant species. Where such storage is not feasible, the area shall be restored with soil of an equal or better quality than that of the excavated topsoil and be redistributed to provide adequate growing conditions.

9. **Hours of operation.** Excavation activity shall only occur between the hours of 7:00 A.M. and 7:00 P.M. (WCAA exempt).

10. **Emissions of fugitive particulate matter.** Excavations shall be operated so as to prevent the emission of dust or other solid matter into the air or on adjacent properties pursuant to Sec. 7.8.F (Smoke, emissions and particulate matter) and Rule 17-2.610(3), F.A.C.

11. **Final site conditions.** No sharp declivities, pits, depressions, or debris accumulation shall remain after rehabilitation. Final grading shall conform to the contour lines and grades on the approved site rehabilitation plan.

12. **Surety Requirements for Littoral Plantings for Agricultural and Type III Excavations.**

a. Except in the case of an application by a political subdivision or agency of the State, all applicants shall, prior to approval, guarantee performance of the project according to the terms of the Notice of Approval by providing to ERM one (1) of the following instruments:

(1) Cash deposit or certificate of deposit assigned to Palm Beach County;
(2) An escrow agreement for the benefit of Palm Beach County;
(3) A performance bond issued by a Florida registered surety company having a Best's rating of A+. Said bond may be canceled only upon written 60-day advance notice given to ERM;
(4) A clean, irrevocable letter of credit which must be executed on a form provided by Palm Beach County; or
(5) Unless otherwise approved in writing by ERM, performance bonds or letters of credit shall be on forms provided by Palm Beach County.

b. The performance guarantee shall be a minimum of $10,000 and shall be an amount of no less than of one hundred and ten (110) percent of the total estimated cost for planting, maintaining, and monitoring the required littoral shelves. ERM retains the option for requesting a second cost estimate for which the performance guarantee is based.

c. The performance guarantee shall be executed by a person or entity with a legal or financial interest in the property and shall remain in effect a minimum of seven hundred thirty (730) days (2 years) after the mining operation or reclamation is completed in accordance with this section and is accepted by ERM in writing. Transfer of title to the subject property shall not relieve the need for the performance guarantee. The seller shall maintain, in full force and effect, the original performance guarantee until it is replaced by the purchaser.

d. Should Palm Beach County find it necessary to use the performance guarantee to undertake any corrective work on the littoral shelves or to correct water resource impacts from the excavation, the applicant shall be financially responsible for all legal fees and associated costs incurred by Palm Beach County in recovering its expenses from the firm, corporation or institution that provided the performance guarantee.

e. The surety shall be released upon successful completion of all conditions of the Notice of Approval, such as meeting the survivorship criteria and completing the required maintenance and monitoring program.

f. The applicant shall submit a signed affidavit stating that a restriction shall be placed on the property deed so that all littoral plantings shall be maintained in perpetuity.

13. Additional surety requirements for Type III Excavations (upland reclamation).

a. Except in the case of an application by a political subdivision or agency of the State, a rehabilitation and reclamation surety shall be posted in the amount of two thousand five hundred dollars ($2,500) per acre for the total acreage included in the conditional use, unless bonded in phases, as approved by the Director of Zoning.

b. The surety shall:

(1) Be assigned to the Board of County Commissioners.
(2) Be one (1) of the following instruments:
  (a) A cash deposit or certificate of deposit assigned to Palm Beach County;
  (b) An escrow agreement for the benefit of Palm Beach County;
  (c) A performance bond issued by a Florida registered surety company having a Best's rating of A+. Said bond may be canceled only upon written 60-day advance notice given to PZB; or
  (d) A clean, irrevocable letter of credit which must be executed on a form provided by Palm Beach County.

c. The performance guarantee shall be executed by a person or entity with a legal or financial interest in the property and shall remain in effect a minimum of seven hundred thirty (730) days (2 years) after the mining operation or reclamation is completed in accordance with this section and accepted by the Director of Zoning. Transfer of title to subject property shall not relieve the need for the performance

guarantee. The seller shall maintain, in full force and effect, the original performance guarantee until it is replaced by the purchaser.

d. Should Palm Beach County find it necessary to use the performance guarantee to undertake any corrective work on the mined area, to complete the mined area or reclamation under the terms of this section, the applicant shall be financially responsible for all legal fees and associated costs incurred by Palm Beach County in recovering its expenses from the firm, corporation or institution that provided the performance guarantee.

e. The surety shall be released upon the submission and approval of all the following items to the Development Review Committee:

(1) Written certification by an engineer registered in the State of Florida that all performance guarantees have been satisfied; and
(2) A certified "as-built" drawing as required by the Code.

f. Reclamation shall occur immediately following the end of excavation or immediately following each phase of excavation. In the event that rehabilitation and reclamation are to be conducted in phases, the following additional requirements shall apply:

(1) A phasing plan is to be submitted indicating:
(a) Exact acreage of each phase;
(b) Proposed duration of excavation and rehabilitation of each phase; and
(c) Proposed replacement tree planting plan.
(2) The Development Review Committee must approve the phasing plan.
(3) Reclamation and rehabilitation surety for the specific phases shall not be released until reclamation and rehabilitation has been completed in accordance with the approved reclamation and rehabilitation plan and certified in writing by an engineer registered in the State of Florida.
(4) Upon commencement of reclamation and rehabilitation of the initial phase of excavation, the next phase of excavation may commence upon written authorization by ERM. The applicable bond must be on file prior to authorization for the commencement of excavation on any subsequent phase.

[Ord. No. 93-4]

G. Specific Criteria. All non-exempt excavation activities must meet the requirements contained in the General Criteria Sec. 7.6.F (except where exempted by this section) and the following specific criteria for the type of excavation activity as listed below:

1. **Agricultural Excavations.** All Agricultural Excavations must meet all the General Criteria in Sec. 7.6.F and the following additional requirements:

a. **Standards.**

(1) **Minimum Necessary To Support Bona fide Agricultural Use.**
(a) A detailed site plan showing all proposed excavation, including boundaries and acreage, depths, and the standards of Sec. 7.6.F.(1,2,3,&4.a);
(b) A listing of the nature of the excavation operation, including materials expected to be excavated;

(c) A detailed (written and graphic) explanation of the proposed bona fide agricultural use. This explanation shall demonstrate consistency with applicable Industry Standards and shall satisfy the definition requirements of bona fide agriculture pursuant to Article 3.

(2) **Setback.** No excavation shall be conducted within fifty (50) feet of the property line or in any area prohibited in this Code or any other regulation, state, federal or local.

b. Application Procedures.

(1) **For Land Use.** Any person proposing to initiate Agricultural Excavation activities, shall submit an application for an Agricultural Excavation approval to the Zoning Director. This application shall include the requirements of Sec. 7.6.G.1.a.

(2) **Determination of sufficiency review and decision.**

(a) **Agricultural excavation one (1) acre or less in surface area.** Excavation consisting of one (1) acre or less in surface area shall be subject to Development Review Committee review and approval, pursuant to Article 5 of this Code. After the application has been determined complete, it shall be approved, approved with conditions, or denied in writing by the Development Review Committee.

(b) **Agricultural excavation greater than one (1) acre in surface area.** Agricultural excavation greater than one (1) acre in surface area shall be subject to the submission, review and approval, approval with conditions or denial procedures and standards of a conditional use "A" process, pursuant to Article 5 of this Code and all standards for agricultural excavation herein.

(3) **For Construction.** The following items are required:

(a) **Notice of Intent to Construct.** A Notice of Intent to Construct shall be submitted to ERM prior to the construction of any mined lake. The Notice shall be accompanied by drawings of sufficient detail to demonstrate adherence to the provisions of this section, including the littoral zone planting plan, and the General Criteria Section and shall be signed and sealed by a professional recognized and approved by the Florida Department of Professional Regulation for this type of project; and

(b) A Fee as established by the approved Fee Schedule.

(c) Upon receipt by ERM of a Notice of Intent to Construct and appropriate fee with all information necessary to demonstrate that the provisions of these sections will be met, ERM shall issue a Notice of Approval within thirty (30) days.

2. West County Agricultural Area (WCAA) Excavations. WCAA excavations must meet all of the following requirements:

a. Standards. The following criteria shall apply to all mined lakes in the WCAA:

(1) General Criteria Sec. 7.6.F.1,3,5,6,7,8,10, and 11; and

(2) Slopes shall not be steeper than four (4) feet horizontal to one (1) foot vertical to a minimum depth of minus two (-2) feet OHW.

b. Application Procedures.

(1) **For Construction.** The following items are required:

(a) **Notice of Intent to Construct.** A Notice of Intent to Construct shall be submitted to ERM prior to the construction of any mined lake. The Notice shall be accompanied by drawings

of sufficient detail to demonstrate adherence to the provisions of this section and the General Criteria Section as required and shall be signed and sealed by a professional recognized and approved by the Florida Department of Professional Regulation for this type of project; and

(b) A Fee as established by the approved Fee Schedule.

(c) Upon receipt by ERM of a Notice of Intent to Construct and appropriate fee with all information necessary to demonstrate that the provisions of these sections will be met, ERM shall issue a Notice of Approval within thirty (30) days.

3. **Type I (A) excavation.** Type I (A) excavation shall be accessory to the construction of a single family residence on a lot area greater than one (1.0) acre in size.

a. **Procedure.** Prior to initiation of type I (A) excavation activities, approval to excavate shall be received concurrent with the receipt of a building permit from the PZB Department, pursuant to the procedural and substantive standards of this subsection.

b. **Application.** Any person requesting approval for Type I (A) excavation shall submit concurrently with a building permit application:

(1) **Site Plan.** A general site plan showing the standards listed below in **item c. (Standards for Type I A excavation).**

(2) **Statement.** A statement estimating the amount of material, in cubic yards of material to be excavated;

(3) **Authorization.** Notarized authorization from the property owner to excavate.

(4) **Determination of sufficiency, review and decision.** The PZ&B Department shall determine if the permit for type I (A) excavation is complete within ten (10) working days. If the form is not complete, the applicant shall be notified of the deficiencies. After the application has been determined complete, it shall be reviewed by the Zoning Director and approved, approved with conditions, or denied based on the standards listed in Article 7.6 (excavation).

(5) **Review of reclamation prior to issuance of Certificate of Occupancy or Certificate of Completion.** The property owner shall submit to the PZ&B Department a Certificate Of Compliance depicting an as-built survey or a form board survey showing the location, size, depth of the excavation utilizing the standards of Sec. 7.6 (Excavation) and bearing the seal of a Registered Land Surveyor. This certificate shall be submitted prior to issuance of a certificate of occupancy. For single family lots where no permanent water body is created, the building permit site plan shall serve as the reclamation plan.

c. **Standards for Type I (A) excavation.** All Type I (A) excavation shall conform to the following standards.

(1) **Off-site removal.** Off-site removal of fill shall be prohibited.

(2) **Depth.** No excavation shall exceed ten (10) feet in depth below Ordinary High Water (OHW).

(3) **Slope.** Side slopes no steeper than four (4) to one (1) from the top of bank to a depth of minus two (-2) feet OHW. However, a minimum four (4) foot high gated fence completely enclosing the excavation may be substituted for the required slopes.

d. **Surface area of Type I(A) excavation** measured at OHW shall be reviewed according to the following criteria:

(1) **Permitted** the maximum surface area of all Type 1(A) excavations on the premises shall be less than one eighth (0.125) acre.

(2) **Special Conditions** the maximum surface area of all Type 1(A) excavations on the premises shall be at a maximum the minimum necessary to construct the proposed single family structure or one fifth (0.2) acre, whichever is less. Provided that in addition to the requirement set forth in 6.4 note 88.c.(Type 1(A) Excavation) the applicant must submit:

(a) **Justification.** A justification statement in the form of a letter to the Zoning Director detailing the need for the increased surface area of the Type 1(A) excavation;

(b) **Calculations.**Cut and fill calculations, bearing the seal of a professional recognized and approved by the Florida Department of Professional Regulations for this type of project, to warrant the increase surface area of the Type 1(A) excavation; and,

(c) **Authorization.** Written authorization from the Palm Beach County Health Department. Excavation associated with septic tank installation, demucking, and grading activities shall not be considered in these calculations.

e. **Building permit.** The excavation is approved in conjunction and concurrent with a valid building permit for the site.

f. **Setback.** No excavation (measured from the edge of water) shall be conducted within fifteen (15) feet at the time of construction to any of adjacent property lines, nor within fifty (50) feet of any potable water well or one hundred (100) feet of any septic tank, pursuant to Sec. 16.1 and 16.2, Environmental Control Rules I and II. In addition, a five (5) foot minimum setback is required from the top bank of an excavation to all property lines.

g. **Reclamation.** All side slopes for type I (A) excavation shall be stabilized and planted with the appropriate ground cover from top of bank to the edge of the water. If seeding is to be used, it shall be required to have fifty percent coverage of seeded areas prior to CO.

4. **Type I (B) excavation.** Type I (B) excavation shall be accessory to the construction and use of a single family residence with a lot area greater than two and one half (2.5) acres in accordance with Article 7, Sec. 6 of this code.

a. **Procedure.** Prior to initiation of type I (B) excavation activities, approval to excavate shall be received concurrent with the receipt of a valid building permit from the PZ&B Department, pursuant to the procedural and substantive standards of this subsection.

b. **Application.** Any person requesting approval of type I (B) excavation shall submit to the Zoning Director an application on a form established by the Zoning Director. The application requirements shall include but not be limited to the following:

(1) **Site Plan.** A site plan showing the proposed excavation, including but not limited to: all structures, improvements, easements , right-of-ways existing and proposed, and any other information as required by this Code,

(2) **Statement.** A statement listing the nature of the excavation operation, including but not limited to: the amount of materials expected to be excavated, the duration of the excavation activity, the amount of fill to be removed from site, the amount of fill to remain on site and, the proposed method of excavation;

(3) **Aerial.** A 1:200 aerial or better clearly depicting the site; and,

(4) **Fee.** A fee, as adopted by the established fee schedule.

(5) **Determination of sufficiency, review and decision.** After the application has been determined complete, it shall be reviewed by the Development Review Committee for certification to assure compliance with the standards established in Sec. 5.6, and

c. **Standards Type I B Excavation.** All Type I(B) excavation shall meet the requirements of Sec. 7.6.F.1,2.a,5,6,7,8,9,10,and 11 (General Criteria For Excavations), in addition to the following items:

(1) **Depth.** No excavation shall exceed fifteen (15) feet in depth below the OHW.

(2) **Surface area.**The maximum surface area of all excavation on the premises shall be less than twenty five (25%) percent of the gross lot area and shall not exceed two (2.0) acres in surface area.

(3) **Building permit.**The excavation is approved in conjunction and concurrent with a valid building permit for the site.

(4) **Setback.** No excavation shall be conducted within fifty (50) feet of an adjacent property line, nor within fifty (50) feet of any potable water.

(5) **Slopes.** All side slopes shall be planted or seeded with the appropriate ground cover from the top of bank to the edge of water. All seeded areas must have a fifty (50) percent coverage prior to final inspection.

(6) **Duration.** No special type I (B) excavation permit shall be valid after one hundred and twenty (120) days from the issuance of the special type I (B) excavation permit.

5. **Type II Excavations.** All Type II Excavations must meet all the General Criteria in Sec. 7.6.F (except 7.6.F.12 and 7.6.F.13) and the following additional requirements:

a. **Standards.**

(1) **Setback.** No excavation shall be conducted within fifty (50) feet of the property line or in any area prohibited in this Code or any other regulation, state, federal or local.

b. **Application Procedures.**

(1) **For Land Use.** Any person proposing to initiate Type II excavation activities as part of the development of a site development plan, shall submit to PZB a Development Review Committee application and a letter of intent to excavate on a form provided by the Zoning Division. This letter of intent shall include the following items:

(a) A detailed site plan showing all proposed excavation, including boundaries and acreage, depths, and the standards of Sec. 7.6.F.(1,2,3,&4.a);

(b) A listing of the nature of the excavation operation, including materials expected to be excavated;

(c) A complete vegetation removal permit application;

(d) Calculations for the entire project detailing the amount of material to be excavated, the amount of excavated material to be used on-site, and the percentage of excavated material to be disposed of off-site;

(e) 1:200 aerial or better clearly depicting the site; and

(f) A fee, as adopted by the established Fee Schedule.

(2) **Determination of sufficiency, review and decision.** The application shall be reviewed as part of the application for the development permit. The Type II excavation component of the site development plan application shall be approved, approved with conditions, or denied based on the standards established in Sec.7.6.G.3.(a.1. & b.1.) and the following requirements:

(a) If less than ninety (90) percent of the excavated material is proposed to be used on-site, the applicant may opt to demonstrate that due to certain unusual site conditions, more than ten (10) percent of the excavated material must be removed to develop the approved site plan. If staff agrees that such abnormal conditions exist, the application may be approved pursuant to Sec. G.1.b.(2)(b), G.5.b.(2) (Determination of sufficiency, review and decision). Such unusual conditions may, for example, be the existence of an abnormal amount of silt, rock, muck, or excess fill resulting from required drainage improvements.

(b) If less than ninety (90) percent of the excavated material is proposed to be used on-site and no unusual conditions exist justifying removal of more than ten (10) percent of the excavated material from the site, the applicant must obtain Class "A" Conditional use approval of the excavation activity pursuant to the standards of Article 5 (Class "A" Conditional uses) and Sec. 7.6.G.4. (Type III excavation), prior to approval of the site plan.

(3) **For Construction.** The following items are required:

(a) **Notice of Intent to Construct.** A Notice of Intent to Construct shall be submitted to ERM prior to the construction of any mined lake. The Notice shall be accompanied by drawings of sufficient detail to demonstrate adherence to the provisions of this section, including the littoral zone planting plan, and the General Criteria Section as required and shall be signed and sealed by a professional recognized and approved by the Florida Department of Professional Regulation for this type of project; and

(b) A Fee as established by the approved Fee Schedule.

(c) Upon receipt by ERM of a Notice of Intent to Construct and appropriate fee with all information necessary to demonstrate that the provisions of this section will be met, ERM shall issue a Notice of Approval within thirty (30) days.

6. **Type III Excavations.** All Type III Excavations must meet all the General Criteria in Sec. 7.6.F and the following additional requirements:

a. **Standards.**

(1) **Incompatibility of land uses.** All Type III excavations shall be reviewed to assure that the proposed excavation is compatible with the surrounding land uses. PZB shall not recommend that an application be approved by the Board of County Commissioners where staff finds that the approval would create an incompatibility of land uses. The "incompatibility of land uses" refers to issues arising from the proximity or direct association of contradictory, incongruous, or discordant land uses or activities, including the impacts of noise, vibration, smoke, odors, toxic matter, radiation, and similar environmental conditions.

(2) **Buffer Size.** Type III excavation activities shall be separated and buffered from incompatible uses as provided by Table 7.6-1 below. Separations shall be measured from the nearest adjacent property line inward to the top slope line of the nearest excavation activity. The Zoning Division may recommend to the Board of County Commissioners that the required separation distance be altered based on the compatibility of the use with the adjacent area, and the remoteness or proximity and number of adjacent incompatible uses.

TABLE 7.6-1
PERIMETER BUFFERS

Adjacent Land Use	Minimum Separation	Minimum Buffer Height	Minimum Buffer Width
Residential	½ mile	12 feet	25 feet
Commercial	⅛ mile	6 feet	15 feet
Light Mfg.	⅛ mile	6 feet	15 feet
Agricultural	⅛ mile	6 feet	15 feet

(3) **Buffer Planting.** The buffer shall consist of a planted earthen berm or a solid landscape barrier, or combination of berm and landscaping, of the height and width described in Table 7.6-1 above. The buffer shall be planted and maintained in accordance with the standards of Sec. 7.3.

(4) **Setbacks.** No buildings or structures accessory to Type III excavation activities shall be located closer than one hundred (100) feet from any property line, canal or easement. Where deemed necessary, the Zoning Director shall increase the width of the setback area to a greater dimension if it is necessary to adequately buffer conflicting land uses. Setbacks shall be measured from the nearest adjoining property line inward. Except for the planted buffer area and an approved access area, existing native vegetation within the setbacks shall not be disturbed or removed. In all cases the disturbed excavated area shall have a setback of fifty (50) feet from all property lines.

(5) **Rehabilitated Perimeter.** A rehabilitated perimeter around the excavation shall have the following dimensions surrounding the total perimeter of the conditional use:

(a) One hundred eighty (180) foot width surrounding fifty (50) percent of the total conditional use area.

(b) One hundred (100) foot width surrounding the remaining fifty (50) percent of the total conditional use area.

(6) **Upland Reclamation Requirements.** A minimum of five (5) native plant species shall be used to satisfy the following requirements:

(a) The equivalent of one (1) native tree measuring eight (8) feet in height and two (2) native understory seedlings measuring eighteen (18) inches in height per 3,500 square feet of disturbed excavated area designated as a reclamation area.

(b) All disturbed areas shall be planted or seeded with native ground cover to reduce the loss of topsoil and to prevent the establishment of prohibited plant species.

b. Application Procedures.

(1) **For Land Use.** All Type III excavation activities shall be approved as a Class "A" Conditional Use. These standards shall prevail over less restrictive standards applicable to such operations imposed by this Code or other laws. Any person requesting approval for Type III excavation shall submit an excavation application for the entire parcel to the Zoning Division.

The application for Type III excavation shall include the following items:

(a) All application contents required by a Conditional use A application;

(b) A precise site plan showing all proposed excavation, including boundaries, depths, acreages, and the standards of Sections 7.6.F (General Criteria), and 7.6.G.4.a. (Specific Criteria);

(c) A listing of the nature of the operation including expected amount and type of materials to be excavated;

(d) A site plan showing fencing and buffering, including a detailed landscaping plan;

(e) An erosion and fugitive particulate control plan; erosion control strategies may include plants as approved by ERM, mulching, stabilizing, or other techniques;

(f) The reclamation plan submitted to and approved by PZB based on the standards set forth below. Except where Type III Excavation is conducted prior to development of an approved planned development, the bona fide site plan shall serve as the reclamation plan;

(g) A complete vegetation removal permit application;

(h) 1:200 aerial or better clearly depicting the site; and

(i) A fee, as adopted by the established Fee Schedule.

(2) **Determination of sufficiency, review and decision.** After receipt of an application requesting a Type III excavation permit, the Zoning Director shall determine whether it is complete within ten (10) working days. If it is determined the application is not complete, notice shall be served on the applicant specifying the deficiencies. No excavation application shall be certified for the planning commission prehearing conference unless the application has been determined sufficient. After the application has been certified, it shall be reviewed consistent with the conditions and provisions of Chapter I, Sec. 102 and Article 5 and Sections 7.6.F. (General Criteria), and 7.6.G.4.a. (Specific Criteria) of this Code and be approved, approved with conditions or denied.

(3) **For Construction.** The following items are required:

(a) **Notice of Intent to Construct.** A Notice of Intent to Construct shall be submitted to ERM prior to the construction of any mined lake. The Notice shall be accompanied by drawings of sufficient detail to demonstrate adherence to the provisions of this section, including the littoral zone planting plan, and the General Criteria Section and shall be signed and sealed by a professional recognized and approved by the Florida Department of Professional Regulation for this type of project; and

(b) A Fee as established by the approved Fee Schedule.

(c) Upon receipt by ERM of a Notice of Intent to Construct and appropriate fee with all information necessary to demonstrate that the provisions of this section will be met, ERM shall issue a Notice of Approval within thirty (30) days.

[Ord. No. 93-4] [Ord. No. 95-8]

H. Variance From Construction Criteria For Type II, III, Agricultural, and WCAA Excavations.

1. **Granting of variance.** A variance from the construction criteria contained in Sec. 7.6.F for Agricultural, WCAA, Type II, and III excavations may be granted by ERM to a person who demonstrates, by a preponderance of evidence, that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare, and that special or unique circumstances exist to justify the variance based on one or more of the following conditions:

   a. That the literal application of these standards will create an unreasonable hardship and that the special and unique circumstances do not result from the actions of the applicant;

   b. That appropriate technology and methods will be used to insure consistency with the intent of the Code; or

   c. That granting of the variance will be in harmony with the general intent and purpose of the Code.

2. **Variance request standards.** The variance request shall be accompanied by drawings of sufficient detail to provide the information needed to determine if a variance is appropriate. The variance request and drawings shall be signed and sealed by a professional recognized and approved by the Florida Department

of Professional Regulation for this type of project. The variance request shall be accompanied by a fee as established by the Approved Fee Schedule.

3. **General.** No variance shall be approved within Wellfield Zone 1 or within 300 feet of a public drinking water well, whichever is more restrictive, nor for any mining operation location which will reduce hydraulic recharge distances to a public water supply well in excess of 2 percent.

4. **Review Process.** Upon receipt of a request for a Variance from the Construction Criteria, ERM shall have thirty (30) days to request any additional information.

   a. Within thirty (30) days of receipt of the requested additional information, ERM may only request information needed to clarify the additional information supplied or to answer new questions raised by or directly related to the additional information.

   b. If ERM does not make a request for additional information within thirty (30) days of receipt of the request for a Variance from Construction Criteria, the variance request shall be deemed complete upon receipt.

   c. If an applicant fails to respond to a ERM request for a variance request fee or any additional information within sixty (60) days, the variance request may be denied without prejudice. However, ERM may grant an extension of time as is reasonably necessary to fulfill the request for additional information.

   d. Upon receipt of a completed request for a Variance from Construction Criteria, ERM shall have sixty (60) days to take final action, unless the time period is waived by the applicant. ERM action shall be approval of the variance request and issuance of a Notice of Approval or denial of the variance request.

I. **Violations, Enforcement, and Penalties.**

1. **Violations.** For each day or portion thereof, it shall be a violation of this Code to:

   a. Fail to comply with the requirements of this section or of any approval or exemption granted or authorized hereunder;

   b. Alter or destroy the approved depths, slopes, contours, or cross-sections;

   c. To chemically or manually remove, damage, destroy, cut, or trim any plants in the littoral zones, except upon written approval by the Director of ERM;

   d. To dredge, excavate, or mine an area without prior receipt of approval(s) from ERM and/or PZB; or

   e. To cause water quality violations in excess of the standards contained in F.A.C. Chapter 17-302.

2. **Fines.** Violations of the provisions of this section shall be punishable by:

   a. Triple fees for approvals not obtained prior to violations; and

   b. A fine not to exceed five hundred dollars ($500) per day per violation; or

c. Imprisonment in the County jail not to exceed sixty (60) days or by both fine and imprisonment upon conviction, pursuant to the provisions of Sec. 125.69, Fla. Stat.

3. **Restoration.** Damage to the littoral shelves and/or littoral plants may result in an order to restore to the approved conditions. Excavations that have occurred without prior approval may result in an order to restore to preexisting conditions.

4. **Review board.** Violations of this section may be referred by ERM and/or PZB to the Groundwater and Natural Resources Protection Board for corrective actions and civil penalties.

5. **Additional Sanctions.** In addition to the sanctions contained herein, the County may take any other appropriate legal action, including but not limited to, temporary and permanent injunctions, to enforce the provisions of this Section.
[Ord. No. 93-4]

J. Appeals. An applicant may appeal a final determination made by the Director of either PZB or ERM to the Environmental Ordinance Appeals Board pursuant to this Section. The applicant shall comply with the following appeal procedures:

1. **Submittal.** An appeal must be made within twenty (20) days of the applicant's receipt of the final action.

2. **Hearing.** Each hearing shall be held within sixty (60) days of submittal of all documents which the Environmental Ordinance Appeals Board deems necessary to evaluate the appeal.

a. At the conclusion of the hearing, the Environmental Ordinance Appeals Board shall orally render its decision (order), based on the evidence entered into record.

b. The decision shall be stated in a written order and mailed to the applicant not later than ten (10) days after the hearing.

c. Written order of the Environmental Ordinance Appeals Board shall be final.

3. **Judicial Relief.** An applicant, ERM or PZB may appeal a final written order of the Environmental Ordinance Appeals Board within thirty (30) days of the rendition of the written order by filing a petition for Writ of Certiorari in Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

[Ord. No. 93-4; February 2, 1993] [Ord. No. 95-8; March 21, 1995]

SEC. 7.7 DRIVEWAYS AND ACCESS.

A. **Purpose and intent.** It is the purpose and intent of this section to promote safe and efficient traffic movement while affording reasonable access to abutting land.

B. **Driveways.** Driveways shall be subject to the following standards.

1. **Spacing.**

a. **Local or residential access streets.** Lots located on local or residential access streets shall have a maximum of two (2) accessways. Driveways for lots located on local or residential access streets at interior locations shall maintain a minimum setback from a side or rear lot line as follows:

(1) Single Family or Multifamily driveways - 2 foot
(2) Zero Lot Line driveways - 1 foot
(3) Townhouse driveways - 1 foot

b. **Arterial and collector streets.** Driveway locations and spacing shall be accordance with the County standards for street connections along arterial and collector roads. Provided, however, that driveway connections to any road which is part of the State Highway System, as defined in Sec. 334.03, Fla. Stat., shall meet the permit requirements of FDOT for street connections, pursuant to Sec. 335.18, Fla. Stat.

2. **Construction.** Driveway connections to streets under the jurisdiction of Palm Beach County shall be constructed in accordance with the County standards . Construction standards and details for driveways shall be available from the DEPW.

C. **Double frontage lots.** Where a double frontage residential lot is located adjacent to a collector or an arterial road, it shall also be required to front on a local or residential access street. A limited access easement shall be placed along the land line that abuts either the collector or arterial road.

D. **Exceptions.** The County Engineer shall have the authority to grant a permit for driveway and access plans with lesser or greater dimensions than designated in this section, giving consideration to the following factors:

1. Lot size;
2. Lot configurations;
3. Proposed land use;
4. Traffic generation or anticipated traffic volume along adjoining rights-of-way;
5. Traffic characteristics of the land use;
6. Driveway locations on contiguous land or land on the opposite side of the street;
7. Median opening locations;
8. Safe sight distance; and
9. Such other factors as may be deemed pertinent by the County Engineer.

SEC. 7.8 MISCELLANEOUS STANDARDS.

A. Performance Standards.

1. **Purpose and intent.** The purpose and intent of this section is to eliminate and regulate sources and occurrences of noise, vibration, smoke, dust or other particulate matter, toxic or noxious waste materials, odors, fire and explosive hazards or glare that interfere with the peaceful enjoyment of land or which are contrary to the public health, safety or welfare or constitute a nuisance to the public at-large.

2. **Applicability.** This section shall apply to all development within unincorporated Palm Beach County unless specifically exempted pursuant to Sec. 7.A.3.

3. **Exemptions.** The following shall be exempted from the standards of this section.

   a. Sound emitted from the operation of motor vehicles legally operating on any public right-of-way which are regulated by Chapter 316, Fla Stat., the Uniform Traffic Control Law.

   b. Any noise generated by interstate motor and rail carriers and aircraft or airport operations. Any other subjects to the extent preempted by applicable State or Federal laws or regulations.

   c. Any noise generated as a result of emergency work, as a danger warning device, or for the purpose of alerting persons to the existence of any emergency.

   d. Any noise generated by any government sanctioned activity conducted on public land.

   e. Any noise generated within any public right-of-way, including parades, when appropriately sanctioned by the governing body.

   f. Non-amplified crowd noises at sporting events.

   g. Any noise emitted from a source located within the Research and Technology Overlay (R&T-0) district.

4. **Noise.**

   a. **Maximum permissible sound levels.**

      (1) **Specific prohibitions.** The following activities shall be prohibited.

      (a) **Horns, signaling devices.** The sounding of any horn or audible signal device of any motor vehicle, boat, train, engine, machine or stationary boiler of any kind except as required by law or as a warning. The sounding of any warning device for an unnecessary or unreasonable period of time is also prohibited.

      (b) **Public streets and parks.** The operating or playing of any radio, television, phonograph, musical instrument or similar device on the public rights-of-way or in public parks in a manner as to be plainly audible at a distance of one hundred (100) feet from the sound source at any time.

(c) **Loud speakers and sound amplifiers.** The using or operating of any loud speaker, loud speaker system, sound amplifier, radio, television, phonograph, musical instrument or other similar device within or adjacent to inhabited residential land such that the sound therefrom is plainly audible across the property line of the inhabited residential land at any time. This section shall not apply to any special events, such as parades, festivals or sporting events, but shall apply to lounges, restaurants or night clubs.

(d) **Street sales advertising.** The use or operation of any loudspeaker, sound amplifier or musical instrument which produces or reproduces sound which is cast or emitted upon the public streets and sidewalks for the purpose of commercial advertising or for attracting the attention of the public to any particular building, structure or place when such sound that is emitted is plainly audible across the land line of any inhabited residential land.

(e) **Machinery construction work.** The operation of any machinery, demolition equipment, construction equipment, excavating equipment, power tools, equipment of semi-mechanical devices or undertaking construction work which emits sound across the land line of an inhabited residential land between the hours of 10:00 PM and 7:00 AM. This shall not prohibit the use of pumps or machinery which, because of its very nature and purpose, is required to be operated twenty-four (24) hours a day.

(f) **Lawn equipment.** The operation of lawn and garden equipment which emits sound across the line to inhabited residential land between the hours of 10:00 PM and 7:00 AM.

(2) **General prohibitions.** No person shall operate or cause to be operated any source of sound from any location in such a manner as to create a sound level which exceeds the limits set forth in Table 7.8-1 for inhabited residential and commercial land more than ten (10) percent of any measurement period, which period shall not be less than ten (10) minutes when measured at or within the boundary of the complaining landowner. For the purpose of this section, inhabited shall mean regularly occupied by the complainant and occupied at the time of complaint. Sound Level Measurement shall be made with a Type 2 or equivalent sound level meter using the A-Weighting Scale in accordance with the standards of the American National Standards Institute (ANSI). All measurements shall be made with a sound meter at or within the boundary of the complaining landowner.

TABLE 7.8-1
PROHIBITED SOUND LEVELS

Receiving Land	Noise Source	Time of Day	Sound Level Limit
Residential	Fixed mechanical equipment	Any time	60 DBA
Residential	All other sources	7 AM to 8 PM	60 DBA
		8 PM to 11 PM	55 DBA
		11 PM to 7 AM	50 DBA
Commercial	All sources	Any time	70 DBA

b. **Public nuisance/injunctive relief.** Any emission of noise from any source in excess of the limitations established in or pursuant to this section shall be deemed and is hereby declared to be a public nuisance. Upon receipt of written complaint of violation of this section, the Code Enforcement Officer may investigate and request the County Attorney to file injunctive proceedings to abate the nuisance. Such proceedings shall be cumulative and in addition to the penalties provided herein.

5. **Vibration.**

   a. **Non-industrial districts.** In all districts except the IL, IG and PIPD districts, no use shall be operated so as to produce ground vibration noticeable without instruments, at the lot line of the premises on which the use is located.

6. **Smoke, emissions and particulate matter.**

   a. **Generally.** No use or activity shall be operated except in full compliance with the standards controlling air pollution as provided in the laws of the State of Florida, Palm Beach County Public Health Unit (PBCPHU) and the ordinances of Palm Beach County.

   b. **Smoke.** In all districts, unless otherwise covered by a specific visible emission limiting standard by a FDER Rule or County Ordinance, every use shall be operated so as to prevent the emission of smoke from any source whatever, the density of which is equal to or greater than that designated as Number 1 on the Ringlemann Chart, or the opacity of which is equal to or greater than twenty (20) percent. For the purpose of grading the density of smoke, the Ringlemann Chart, as published and used by the United States Bureau of Mines, or Method 9, as published in Chapter 17-2 F.A.C. and used by DER, is incorporated herein by reference. All measurements shall be at the point of emission.

   c. **Dust and particulates.** Every use shall be operated to prevent the emission into the air of dust or other solid particulate matter which may cause danger to land and the health of persons or animals at or beyond the lot line of the premises on which the use is located.

7. **Odors.** No use shall be operated so as to produce the emission of objectionable or offensive odors in such concentration as to be readily perceptible at any point at or beyond the lot line of the land on which the use is located. Table III, chapter 5, *Air Pollution Abatement Manual* of the Manufacturing Chemists' Associating, Inc., Washington, D.C., is hereby adopted as a guide in determining the quantities of offensive odors, as are the guides and standards contained in the prohibitions against air pollution of the FDER.

8. **Toxic or noxious matter.** No use shall for any period of time, discharge across the boundaries of a lot on which it is located, toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or general welfare, or cause injury or damage to persons, land, or the use of land, or render unclean the waters of the state to the extent of being harmful or inimical to the public health, or to animal or aquatic life, or to the use of such waters for domestic water supply, industrial purposes, recreation, or other legitimate and necessary uses.

9. **Radiation.** Any operation involving radiation, i.e., the use of gamma rays, X-rays, alpha and beta particles, high speed electrons, neutrons, protons, and other atomic or nuclear particles, shall be permitted only in accordance with the codes, rules, and regulations of the State Department of Health and Rehabilitative Services, Office of Radiation Control and FDER.

10. **Electromagnetic radiation and interference.**

    a. **Radiation.** No person shall operate or cause to be operated for any purpose any planned or unplanned source of electromagnetic radiation which does not comply with the current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation. Any operation in compliance with the Federal Communications Commission regulation shall be deemed unlawful if such radiation causes an abnormal degradation of performance of any electromagnetic receptor of quality and proper design. The determination of "abnormal degradation of performance" and "of quality and proper design" shall be made in accordance with good engineering principles and the standards of the American Institute of Electrical Engineers, the Institute of Radio Engineers, and the Electronic Industries Association.

    b. **Interference.** No use, activity, or process shall be conducted which produces electromagnetic interference with normal radio or television reception in any district.

11. **Drainage.** For all development in all districts, drainage shall be designed, constructed and maintained in accordance with the drainage and stormwater management standards of Article 8, Subdivisions, Platting, and Required Improvements.

[Ord. 95-8]

B. **Outdoor lighting standards.**

1. **Purpose and intent.** The purpose and intent of this section is to reduce the hazard and nuisance caused by the spillover of light and glare on to drivers, pedestrians and land uses near artificial lights. By allowing safe and efficient lighting of outdoor areas and by reducing the negative effects of exterior lighting, the regulations contained in this section are intended to promote land use compatibility, traffic and pedestrian safety, energy efficiency and community appearance. Outdoor lighting shall also be consistent with the Palm Beach County Security Code and Sec. 9.1, (Coastal Protection).

2. **Applicability.** This section shall apply to all exterior lighting in unincorporated Palm Beach County, except street lights that meet the requirements of the appropriate public utility.

3. **Outdoor lighting standards.** Outdoor lighting shall meet the following standards.

    a. **Light confinement.** All outdoor lights shall, to the greatest extent possible, confine emitted light to the property on which the light is located, and shall not be directed upwards, to avoid urban sky glow.

    b. **Spillover light.** Spillover light on to residential property shall not exceed three-tenths (0.3) of one footcandle when measured six (6) feet above grade at the residential property line.

4. **Prohibited lights**. The following types of lights are prohibited in unincorporated Palm Beach County:

   a. Any unshielded light source in a luminaire with no light cutoff that is visible within the normal range of vision from any residential property;
   b. Any light that creates glare observable within the normal range of vision of any public right of way or glare that creates a safety hazard;
   c. Any light that resembles an authorized traffic sign, signal or device, or that interferes with, misleads or confuses vehicular traffic as determined by the Zoning Director; and
   d. Beacon or search lights except for temporary grand openings or special events, as required by state or federal law.

5. **Certification**. For all developments that include free-standing luminaires exceeding sixty (60) feet in height, written certification of compliance with this section, bearing the seal of an engineer registered to practice in Florida, shall be required prior to the issuance of a building permit.

6. **Measurement**. Illumination levels shall be measured in footcandles with a direct-reading, portable light meter. The light meter shall be placed not more than six (6) inches above ground level at the property line of the subject parcel. Measurements shall be made after dark with the lights in question on, then with the same lights off. The difference between the two (2) readings shall be compared to the maximum permitted illumination in order to determine compliance with this section.

7. **Effect on previous approvals**. Exterior lights installed prior to February 1, 1990, shall not be considered nonconforming.

C. Major intersection criteria. As specified in this Code, certain specific uses shall be located at major intersections or internal to a planned development district that is located at a major intersection. For the purpose of this section, to be considered a major intersection each roadway at the intersection shall meet at least one (1) of the following standards:

1. **Four lanes**. The roadway currently exists at four (4) lanes or more, link to link, and is shown on the Thoroughfare Right-of-Way Protection Map. Dedication of right-of-way or construction of additional lanes solely in front of a property shall not satisfy this standard;

2. **Five year road plan**. The roadway appears in the Five Year Road Plan to be constructed as a major arterial of at least four (4) lanes;

3. **Traffic volume**. The average traffic volume on the roadway is greater than ten thousand (10,000) trips per day as shown on the Metropolitan Planning Organization (MPO) Traffic Volume Map;

4. **Right-of-way**. The roadway is shown on the Thoroughfare Plan as one hundred twenty (120) foot right-of-way or greater;

5. **Upgrade agreement**. The applicant agrees to improve the roadway system to meet the standards in this section, as a condition of approval.

[Ord. No. 93-4] [Ord. No. 95-24]
[Ord. No. 93-4; February 2, 1993] [Ord. No. 95-8; March 21, 1995] [Ord. No. 95-24; July 11, 1995]

SEC. 7.9 RESERVED FOR FUTURE USE [Ord. No. 95-24; July 11, 1995].

SEC. 7.10 RESERVED FOR FUTURE USE [Ord. No. 95-24; July 11, 1995].

SEC. 7.11 RESERVED FOR FUTURE USE [Ord. No. 95-24; July 11, 1995].

SEC. 7.12 RESERVED FOR FUTURE USE [Ord. No. 95-24; July 11, 1995].

SEC. 7.13 ARCHAEOLOGICAL RESOURCES PROTECTION

A. **Purpose and intent.** It is hereby declared that the protection, enhancement and examination of significant archaeological resources is in the interest of the health, safety and welfare of the people of Palm Beach County. It is acknowledged that within Palm Beach County there exist sites which are of significant archaeological value as prehistoric, historic and cultural resources. A map identifying known archaeological sites has been prepared by a qualified archaeologist and is adopted as part of this section.

THE MAP OF KNOWN ARCHAEOLOGICAL SITES IS LOCATED IN THE ZONING DIVISION

The purposes of this section are to:

1. Establish a procedure for review of development proposals on lands which have been identified as containing archaeological resources and which will be applicable to lands identified by the predictive model when added to this section by amendment;

2. Establish a method to review the potential archaeological value of previously unidentified sites after the discovery of prehistoric and historical artifacts, skeletal or fossilized human remains, or non-human vertebrate fossils during development;

3. Establish a mechanism to protect, when appropriate, resources of significant archaeological value identified pursuant to this section that are deemed important by a qualified archaeologist to the prehistory or history of the County, State or Nation; and,

4. Facilitate protection of resources of significant archaeological value without substantially delaying development.

B. **Applicability.** This section is applicable in the unincorporated area of Palm Beach County and regarding County owned property in municipalities unless otherwise regulated by municipal archaeological protection regulations and shall apply to:

1. All parcels of land which are identified as archaeological sites on the map entitled "Map of Known Archaeological Sites;"

2. A parcel on which a previously unidentified artifact or any human skeletal or fossilized human remain or non-human vertebrate fossils of significant archaeological value is found during site development or during any other activity which may disturb an archeological site; and,

3. All applications for Type III Excavation.

C. **Development subject to archaeological review**. Development shall be subject to this section as follows:

1. **Parcels on identified sites.** Parcels on the map of known archaeological sites and proposals for type III excavation. Owners of parcels located on the Map of Known Archaeological Sites or owners of parcels requesting approval for Type III Excavation must receive a Certificate to Dig prior to issuance of a development order.

2. **Parcels on previously unidentified sites.** Previously unidentified archaeological sites discovered during development. When one or more artifacts or human skeletal or fossilized remains or non-human vertebrate fossils which were previously undiscovered are found on a site during development or during other activity disturbing the site, all development or disruptive activity directly over the find shall cease. Before any further development or disruptive activity continues, the following procedure shall apply:

   a. The area directly over the find shall be staked by the property owner or agent of the property owner, contractor or subcontractor, or other party discovering the potential find;

   b. Within one (1) working day of discovering the potential find, the Department and, if applicable, the property owner shall be notified;

   c. Within three (3) working days, the County Archaeologist shall inspect and evaluate the site for the purpose of determining whether artifacts or human skeletal or fossilized remains or non-human vertebrate fossils are located on a site. If the qualified archaeologist determines a significant archaeological resource is on site or likely to be on site, the Director of the Planning, Zoning and Building Department shall issue an order suspending construction and define the area where the order suspending construction applies, based upon the archaeologist's assessment. Such order does not have the effect of a stop work order and shall not stop construction activity not directly impacting the defined potential archaeological site;

   d. The County Archaeologist shall evaluate the significance of the archaeological find and send a written Archaeological Evaluation Report to the property owner and Director of the Department of Planning, Zoning and Building postmarked within seven (7) working days from issuance of the suspension order; and,

   e. In the Archaeological Evaluation Report, the County Archaeologist shall require an application for a Certificate to Dig be prepared if the archaeologist determines the site contains artifacts of significant archaeological value. If the County Archaeologist determines that there is no reasonable possibility that artifacts of significant archaeological value are contained on the site, the archaeologist shall make such a finding to the Department in the Archaeological Evaluation Report and the Department shall immediately lift the suspension order.

   f. In order to encourage individuals to bring potential artifacts to the County's attention, private citizens engaged in disruptive activity which does not require a development order and uncover a potential artifact, fossil, or remains, may request a waiver of application fees and shall not be subject to the timeframes required in this subsection.

3. **Sites containing human skeletal remains.** If human skeletal remains are found, then Sec. 872.05, Fla. Stat. (1989), as amended from time to time, controls.

[Ord. No. 93-4]

D. Certificate to dig.

1. **Application.** Owner of parcels required by 7.13.C., above, (Development Subject to Archaeological Review, Parcels on the Map of Known Archaeological Sites and Proposals for Type III Excavation, and Previously Unidentified Archaeological Sites Discovered During Development), to make application for a Certificate to Dig to the Department for review by the Historic Resources Review Board (HRRB) shall make such application prior to the issuance of a development order. The application for the Certificate to Dig shall be made on a form available from the Department. Only one (1) Certificate to Dig shall be required to develop a site unless additional resources are found during site development.

2. **Report contents of a certificate to dig.** The application for a Certificate to Dig shall be subject to a fee established by the Department, governed by Sec. 7.13.D.3.d., below, and include a report prepared by a qualified archaeologist. The report shall at minimum contain a documented search of the Florida Master Site Files, a brief history of the area, an archaeological survey and field inspection performed in a professionally acceptable manner, an assessment of the archaeological significance of the site, and a proposed plan for management.

   All reports submitted to the Department on properties determined to be of archaeological significance shall include the preparation of a Florida Master Site File (FMSF) form, which shall be forwarded by the Department to the Division of Historical Resources of the Florida Department of State. Copies of FMSF forms shall be available at the Department.

3. **Standards for issuance of a certificate to dig.** Within three (3) working days of receiving an application, the Department shall make a determination of the completeness of the application. If the application is determined to be incomplete, the Department shall request additional information by certified mail. When the application is complete, the Department shall forward the application to the HRRB. The HRRB shall hold a public hearing within thirty (30) days of the date of receipt of the application by the HRRB. The Department shall prepare its prepare its evaluation of the application and notify the applicant of its findings at least ten (10) working days prior to the public hearing. Evaluation of the application by the Department and the HRRB shall be based upon guidelines in this section, recommendations included in the archaeologist's report, and the recommendation of the County Archaeologist, if required. The HRRB's evaluation shall do one of the following:

   a. If the property is determined to have no significant archaeological value or insignificant value, the HRRB shall, if applicable, issue the Certificate to Dig, or lift the construction suspension order, if applicable, and the development may proceed; or

   b. If the property is determined to have significant archaeological value, the Board shall issue a Certificate to Dig with conditions that are deemed necessary to protect or permit the excavation of any part of the site found to be of significance, including conditions regarding site design. In order to protect archaeological resources of significant value, the Board may require the applicant to do one or more of the following as part of receiving the Certificate to Dig:

      (1) Preserve the archaeological site within open space of the development;
      (2) Redesign the development to accommodate preservation of all or a portion of a site containing the significant archaeological resources;

(3) The property owner may voluntarily fund or seek funding for excavation of the resource, if agreed to by the County.

c. If the HRRB finds it is impossible to adequately preserve the significant archaeological resource using the standards and procedures in b., above, and the proposed development plan would adversely affect any significant archaeological resources found on the site, the HRRB may delay issuance of a Certificate to Dig for up to eight (8) weeks after the submittal of a completed application so that either:

(1) Appropriate archaeological excavation may be conducted to properly extract and interpret the significant archaeological resources found on the site; or

(2) The County may approach any recognized historic preservation agency to seek alternate solutions; or

(3) A buyer may be found to purchase a site for either site preservation or in order to allow detailed excavation, analysis and interpretation of the site.

d. **Fee for application for certificate to dig.** The Department shall charge a fee covering the direct and indirect costs associated with reviewing an Application for a Certificate to Dig, issuing the certificate and monitoring compliance with the certificate. Fees for the issuance of a Certificate to Dig shall be added to the Department Fee Schedule by resolution approved by the Board of County Commissioners.

[Ord. No. 93-4]

E. **Map of known archaeological sites.** A map of known archaeological sites is attached to this section as Exhibit "A" and is adopted as part of this section. The above referenced map may be amended by resolution or ordinance adopted by the Board of County Commissioners pursuant to Sec. 125.66, Fla. Stat. after considering a recommendation of the HRRB. The map shall be amended upon determination by the County that additional sites of significant archaeological value have been discovered. At a minimum, the map and the Florida Master Site Files shall be reviewed annually for possible map amendment.

[Ord. No. 93-4]

F. **Appeals.** Within thirty (30) days of a written decision by the HRRB regarding an application for a certificate to dig,an aggrieved party may appeal the decision by filing a written notice of appeal, and pay a filing fee, established by the Board of County Commissioners, with the Clerk of the Board of County Commissioners. A copy of the notice of appeal shall be filed with the Executive Director of Planning, Zoning and Building Department. The notice of appeal shall state the decision which is being appealed, the grounds for the appeal, and a brief summary of the relief which is sought. Within forty-five (45) days of the filing of the appeal or the first Board of County Commissioners meeting which is scheduled, whichever is later in time, the Board of County Commissioners shall conduct a public hearing at which time they may affirm, modify or reverse the decision of the Department. The applicant shall be notified by certified mail, return receipt requested, of the date, time, and place of such hearing. At this hearing, the party shall set forth the alleged inconsistencies or non-conformities with procedures or criteria set forth in this code; however no new materials or evidence shall be presented to or considered by the Board of County Commissioners. The Board of County Commissioners shall vote to approve, modify or overrule the decision of the HRRB. The decision of the Board of County Commissioners shall be in writing and a copy of the decision shall be forwarded to the appealing party. An applicant may appeal a final decision of the Board of County Commissioners within thirty (30) days of the rendition of the decision by filing

a petition for Writ of Certiorari in Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

[Ord. No. 93-4]

G. **Procedure for addressing violations, hearing and penalties**. Upon detection by the County that a property owner, agent of property owner, contractor or subcontractor has violated this section, the County shall notify the violator(s) and the property owner, if applicable, that a hearing has been set before the Code Enforcement Board. The notice, hearing and fines shall occur pursuant to Chapter 8.5 of the Code of Laws and Ordinances of Palm Beach County. Further, if the Code Enforcement Board finds that a willful violation of this section has occurred, the County shall fine the violator a fine of up to five hundred dollars ($500.00) per day or impose imprisonment in the county jail not to exceed sixty (60) days or by both fine and imprisonment as provided in Sec. 125.69, Fla. Stat. In addition to the sanctions contained above, the County may take any other appropriate legal action, including, but not limited to, requests for temporary and/or permanent injunctions to enforce the provisions of this section. It is the purpose of this section to provide additional cumulative remedies.

[Ord. No. 93-4; February 2, 1993]

SEC. 7.14 SIGNAGE.

A. **Purpose and intent**. The purpose and intent of this section is to establish standards for the placement and use of signs, symbols, markings, or advertising devices within unincorporated Palm Beach County. These standards are designed to protect the health and safety of persons within Palm Beach County and to assist in the promotion of tourism, business and industry by providing standards which allow and encourage creativity, effectiveness, and flexibility in the design and use of such devices, and minimize the unreasonable restraint upon the needs of the community, while protecting the aesthetic appearance of Palm Beach County.

B. **Applicability**. The provisions of this section shall apply to all signs unique property control number in unincorporated Palm Beach County, unless specifically exempted by Sec. 7.14.E. (Exemptions). These regulations apply individually to all parcels of land whether or not the parcels are included in a development of a larger scale. All signs shall be referenced in relation to the parcel of land on which it is located and each parcel shall be identified by a parcel control number.

C. **Effect on Previously Permitted Signs**.

1. **General.** Previously permitted signs and sign structures which do not meet the provisions of this Code with permanent locations shall be considered nonconforming uses or structures subject to Article 13 of this Code, except:

   a. A sign face may be replaced with a valid permit but not enlarged.

   b. Permits for lighting and electrical alterations may be issued.

   Other than as outlined above or pursuant to a certificate of conformity, a sign structure may not be enlarged, altered or moved without the entire sign being brought into compliance with these regulations.

2. **Electronic Message Center Signs.** To forward the purpose of this Code, it is the intent of the Board of County Commissioners that all electronic message center signs conform to the standards herein. Within thirty (30) days of the effective date of this Code, all electronic message center signs shall comply with the standards of Sec. 7.14.I.6.d., except the signs shall not be required to be moved to meet locational standards, or reduced in area, and existing reflectorized lamps and lamps over thirty (30) watts may continue to be used until they require replacement.

   Any relocation, enlargement or other alteration to electronic message center signs shall require Board of County Commissioners' approval pursuant to Sec. 7.14.I.6.d.

3. **Off-premises signs.** There shall continue to be a prohibition on billboards and similar large off-premises signs in order to improve the aesthetic appearance of unincorporated Palm Beach County.

[Ord. No. 93-4]

D. Required signs and required procedure.

1. **Required signs.** One (1) address sign shall be required for each principal building or use on premises showing only the numerical address designation on the premises upon which they are maintained. Multi-unit buildings which utilize a roadside marquee/signboard, the full building address shall be posted on such marquee/signboard. The address shall be posted in a color contrasting that of the marquee/signboard and of sufficient size to be plainly visible and legible from the roadway. When the building utilizes multiple address, such as multiple occupant mercantile buildings, the address range shall be posted as indicated above. Signs shall be plainly visible from the street or right-of-way providing access to the lot and shall be installed and maintained pursuant to Palm Beach County Building Security Code. This requirement shall apply to all new and existing structures, provided that single family homes and duplexes built prior to January 1984 shall be given a six (6) month grace period after the effective date of this provision to comply.

2. **Application Procedure.** Only approved signs or signs specifically exempt under this Code shall be erected. Signs shall be erected and maintained only as permitted and, unless exempt from permitting, signs not erected and maintained pursuant to a valid permit are illegal. All illegal signs shall be subject to Sec. 7.14.P.

[Ord. No. 93-4]

E. Exemptions. The following shall be exempt from the provisions of this Code and may be erected without a permit:

1. Signs erected by a governmental body governing vehicular and pedestrian travel on public and private rights-of-way.

2. Safety, directional and highway memorial signs placed in public rights-of-way erected by a governmental body.

3. Temporary signs denoting architect, engineer, landscape architect, planner, or contractor on a construction site, not exceeding thirty-two (32) square feet in surface area and twelve (12) feet in height, and provided it is immediately removed upon the issuance of a Certificate of Occupancy or abandonment of work.

4. Required address signs.

5. Off-premises signs incorporated into county owned, contracted or operated bus shelters, pursuant to the county contract dated August 22, 1989, as may be amended. All existing county owned, contracted or operated bus shelters with signage shall be considered nonconforming signs.

6. Outdoor temporary display of merchandise under a structural canopy for special promotion and not exceeding ten (10) days.

7. Signs incorporated into machinery or equipment by a manufacturer or distributor, which identify or advertise only the product or service dispensed by the machine or equipment, such as signs customarily fixed to vending machines, menu boards and gasoline pumps.

8. Words or letters printed on an umbrella affixed to a permanent table where the use at which the umbrella is located is lawfully allowed.

9. Public warning signs on private property to indicate the dangers of trespassing, swimming, no parking, animals or similar hazards. These signs shall be no larger than four (4) square feet unless specifically provided for by law. Signs shall be spaced a minimum of two hundred (200) feet unless superseded by Florida Statutes.

10. Temporary search lights for ten (10) days, four (4) times a year per each business per location and with Federal Aviation Administration approval.

[Ord. No. 93-4]

F. Prohibited signs. The following signs are prohibited:

1. Motion picture and video mechanisms in conjunction with any outdoor advertising or any advertising statuary used in such a manner as to permit or allow the images to be visible on or from any public street or sidewalk.

2. Signs which produce noise or sounds capable of being heard even though the sounds produced are not understandable sounds. This shall not be construed to prohibit voice units at menu boards.

3. Signs which emit visible smoke, vapor, particles, or odor.

4. Signs or other advertising materials as regulated by this section that are erected at the intersection of any street or in any street right-of-way in such a manner as to obstruct free and clear vision; or at any location where, by reason of position, shape, or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device; or which makes use of the words "stop," "look," "drive-in," "danger," or any other word, phrase, symbol, or character in such manner as to interfere with, mislead,or confuse vehicular traffic.

5. Signs in safe distance triangles.

6. Signs erected, constructed, or maintained so as to obstruct, or be attached to any fire fighting equipment, unless approved or required by the Fire Marshall.

7. Signs with any lighting or control mechanism which causes radio or television or other communication interruption or interference.

8. Flags, banners, streamers, pennants, twirling, "A" type, sandwich type, sidewalk or curb signs, blank copy signs and unanchored signs, except where expressly provided for in this section.

9. Signs with visible moving, revolving, or rotating parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic, or mechanical means. This prohibition shall not be construed to prohibit electronic message center signs.

10. Moving or stationary advertising signs if displayed on a vessel on the waterways.

11. Outdoor advertising of any kind or character where any live animal or human being is used as part of the advertising and is visible from any public street or public place. This shall not be construed to include religious displays.

12. Any sign which exhibits thereon any obscene material.

13. Any snipe sign.

14. Any signs attached to trees, utility poles, trailers, and any other unapproved supporting structures.

15. Portable signs, except where expressly provided for in this section.

16. Roof signs.

17. Flashing signs and beacons, except for highway or other warning lights operated or required by a governmental agency. Also prohibited are signs with chasing borders and twinkling lamps visible from public or private rights-of-way. This shall not be constructed to prohibit time and temperature signs or electronic message center signs.

18. Off-premises signs, except as provided for in Sec. 7.14.Q.3.

19. Signs placed upon benches, bus shelters or waste receptacles, except as may be authorized by a governmental agency or superseded by State Statutes.

20. Signs that are in violation of the building code or electrical code adopted by the County.

21. Merchandise displays located inside buildings, oriented to outside, within one (1) foot of a window, and visible through the glass window.

22. Projecting signs, except where expressly permitted in this section.

G. **Signs requiring a special permit from Zoning Division.** These permits shall be obtained by application made on the appropriate form, accompanied by a fee and approved by the Zoning Division. As specified below, a building permit may also be required.

1. **Temporary signs announcing a campaign drive or civic event.** These signs shall be allowed sixty (60) days prior to the campaign drive or event, shall not exceed thirty-two (32) square feet and shall be removed within thirty (30) days following the campaign drive or event and shall not be placed on public property.

2. **Temporary sale sign.** One (1) temporary, on-site, non-illuminated freestanding sign announcing a legally permitted temporary sale shall be permitted for thirty (30) days. This sign shall not exceed twenty (20) square feet in sign area, shall not exceed eight (8) feet in height above finished grade and shall be located at least five (5) feet from all base building lines and comply with all regulations of Sec. 6.4.D.

3. **Temporary signs for grand openings.** A temporary sign for a grand opening shall be permitted, one (1) per business per location, including banners, for no longer than ten (10) days, consistent with the standards of Sec. 7.14.I.6.

4. **Temporary residential development signs.** A special permit shall be required for temporary on-premises freestanding residential development sale signs. The special permit shall be permitted for three (3) years or until eighty (80) percent of the development is sold-out. Allowable temporary signage shall be calculated by utilizing the standards of Sec. 7.14.I.6 and by using the C/R classification on Table 7.14-1.

5. **Temporary balloon type signs.** The following regulations shall apply to all temporary balloon type signs:

   a. The leading edge of the balloon on the ground shall be set back a minimum of fifteen (15) feet from all base building lines;

   b. The balloon itself shall be no higher than thirty (30) feet from base to top and no more than thirty (30) feet in width;

   c. If placed on buildings, balloons shall only be allowed on one or two story buildings and maximum height shall not exceed sixty (60) feet from the ground;

   d. Balloons shall be erected no closer than one (1) mile in any direction from any other legally permitted balloon;

   e. No parcel or development shall be issued more than two (2) permits in any calendar year. The maximum duration of any permit shall be for ten (10) days. There shall be a minimum of thirty (30) days between subsequent permits from the day the balloon is removed;

   f. Balloons shall not be located in any required vehicular use area and shall comply with the parking code and all other Palm Beach County codes;

   g. Balloons shall only be allowed in the CG-General Commercial, PO-Public Ownership, CRE-Commercial Recreation, IL-Light Industrial or IG-General Industrial zones;

h. Only cold air shall be used in the balloons, no hazardous gas or air;

i. No balloon shall be allowed in any right-of-way; and,

j. A copy of the following shall be provided to the Zoning Division for processing the special permit application:
   (1) Legal description, property control number and address of location;
   (2) Written permission of property owner or owner's designated agent;
   (3) Cold air balloon installation occupational license;
   (4) Evidence of installer's liability and property damage insurance;
   (5) Copy of a survey or site plan showing location of balloon, centerline of any rights-of-way and demonstrating compliance with these regulations; and,
   (6) A photograph of the balloon.

H. **Signs subject to special standards and requiring no permit.**

1. **Temporary political sign.** A temporary political sign not more than thirty-two (32) square feet, may be erected on private land or in the right-of-way in any zoning district, for not more than sixty (60) days prior to any election, if removed within thirty (30) days after the election and constructed so as not to create any hazardous or dangerous conditions to the public, impede flow of traffic or affect safe sight distances.

2. **On-premises directional signage.** On-premises directional signs for individual parcels shall be permitted for communicating directions for vehicle maneuvering or location of site features. The total surface area shall not exceed eight (8) square feet nor be over five (5) feet in height.

3. **Window signs.** Window signs shall not exceed twenty five (25) percent coverage of the glass area. All glass doors shall be included in the calculation for total glass area. Any sign on display or hung in front of or within one (1) foot behind the window is considered a window sign.

4. **Vehicle signs.** The purpose and intent shall be to regulate and limit vehicles with advertising from continuously parking adjacent to a right-of-way.

   a. Unless there is only one (1) row of parking, between the building and the right-of-way, vehicles with advertising shall not park in the row of parking or any area adjacent to the right-of-way.

      (1) The following are exempt:
         (a) Vehicles with advertising signs, when the vehicles are making deliveries to that business (U.S. Postal Service, UPS, Federal Express) or vehicles used in conjunction with a special promotion with a valid permit;
         (b) Vehicles with advertising signs with letters less than eight (8) inches in height and less than eight (8) square feet in area; and,
         (c) Vehicles in an industrial zone parked in vehicular use areas.

5. **Real estate signs.** A temporary sign conveying instructions with respect to the sales, rental, or lease of a lot, premises, dwelling, structure or a combination thereof, shall relate only to the premises upon which the sign is located, and shall be exempt if in compliance with the following standards:

a. One real estate sign per right-of-way frontage on which the premises abuts shall be permitted on residential parcels of less than five (5) acres. Signs shall not exceed eight (8) square feet and a maximum height of five (5) feet;
b. One real estate sign per right-of-way frontage on which the premises abuts shall be permitted on residential parcels of five (5) acres or more and all non-residential parcels. Signs shall not exceed thirty-two (32) square feet and a maximum height of twelve (12) feet; and
c. The minimum setback of the sign shall be five (5) feet from all base building lines.

6. **Mobile vendor sign.** Signage for vendors shall be limited to one sign, with a maximum sign face area of ten (10) square feet. The sign shall be no closer to any property line than the vendor's display. Banners, pennants, balloons or flags shall be prohibited. If the mobile vendor vehicle signage is greater than eight (8) square feet then the vendor shall not be permitted any additional signage.

[Ord. No. 93-4] [Ord. No. 94-23]

I. <u>On-site signs subject to special standards</u>. The following on-site signs shall be permitted by building or special permit and subject to the following special standards.

1. **Electrical sign.** An electric sign in any zoning district, shall be subject to the technical requirements contained in the Palm Beach County Electrical Code.

2. **Entrance wall signage.** No sign shall be placed on fences or walls in any zoning district except a development identification sign located at an entrance and placed on a entrance wall in that development. An entrance wall with signage shall be for the purpose of identifying the development and shall be subject to the following standards:

a. Entrance wall signage shall not be located in any safe distance triangle;

b. Entrance wall signage shall be located a minimum of five (5) feet from any and all base building lines and shall be within 100 feet of any access point;

c. If the entrance wall sign exceeds eight (8) feet in height, it shall meet the height and setback standards in the zoning district in which it is located; and

d. Lettering shall be no greater than twenty-four (24) inches in height and the sign surface area shall not exceed sixty (60) square feet. The copy or logo shall only identify the development and shall be affixed on the face of a wall or fence.

3. **Freestanding flagpole and flag size.**

a. There shall be a maximum of three (3) flags allowed on any one parcel. Flagpoles require a building permit, but flags flown from an approved structure do not require a permit.

b. The maximum height of any flagpole shall not exceed fifty (50) feet.

c. A flag pole suspended from or mounted on a building shall not exceed fifteen (15) feet above the highest point (peak) of the building or structure, not including structures exempt from this Code's height limits, such as spires or steeples.

d. The setback for a flagpole shall be one hundred and three (103) percent of the flag's largest possible dimension.

e. The maximum height of a flag shall be thirty (30) percent of the total height of the flagpole. The length of the flag shall be no greater than two (2) times its maximum allowable height.

f. A flag not attached to a flag pole shall not exceed five (5) feet by ten (10) feet.

4. **Directional signage internal to residential developments.** Directional signage within residential developments and subdivisions shall be for communicating directions within the residential community. The following regulations shall apply:

a. The directional signs shall be of similar type and style throughout the planned development;

b. The directional signs shall not exceed twenty- four (24) square feet and a maximum height of eight (8) feet; and,

c. The directional sign shall contain no advertising copy, other than logo or company name.

5. **Directional signage internal to commercial developments.** Directional signage within commercial developments shall be for communicating directions to the general public. The following regulations shall apply:

a. Commercial developments shall be permitted a total of four (4) directional signs internal to the development. In planned commercial developments, each parcel shall be treated as a separate development.

b. The directional signs shall not exceed twenty- four (24) square feet and a maximum height eight (8) feet;

c. The directional sign shall contain no advertising copy, other than logo or company name;

6. **Point of purchase signs.** Point of purchase signs in any zoning district are subject to the standards of this section.

a. Freestanding signs. The maximum number, maximum height, maximum area and the location of freestanding signs shall be governed by the following Table and supplementary standards:

Table 7.14-1

TABLE OF SIGN STANDARDS

Right-of-Way in Width[1] in Feet	Maximum Height in Feet			Maximum Single Face Sign Area in Square Feet			Maximum Number of Signs by Right-of-Way Frontage
	C/C	C/R	R	C/C	C/R	R	
≥110	30	20	10	240	180	100	3≥400 2<400 1≤250
≥80 <110	25	15	10	180	140	80	3≥400 2<400 1≤250
<80	10	8	6	124	96	60	3≥400 2<400 1≤250

Key to Table 7.14-1:

< = less than
> = greater than
≤ = less than or equal to
≥ = greater than or equal to;
C/C = commercial, industrial or non-residentially zoned parcels adjacent to commercial, industrial or non-residentially zoned parcels
C/R = commercial, industrial or non-residentially zoned parcels adjacent to any residentially zoned parcel
R = residentially zoned parcels.

[1] The ultimate rights-of-way distances indicated on the Thoroughfare Right-of-Way Protection Map adopted by Palm Beach County shall be used for determining sign height and sign area. See Section 6.5.G.5 (Base building line).

(1) Location.

(a) Freestanding signs shall be located at least five (5) feet from all base building lines, or from the existing right-of-way when encroachment approval has been granted pursuant to Sec. 6.5.G.6.c. In addition, signs shall be located so as to meet visibility requirements for landscaping within safe sight distance triangles in accordance with Sec. 7.3.H.8.

(b) There shall be a minimum of a forty-eight (48) foot separation measured by a radius between all signs on non-residentially zoned parcels, including between signs on adjacent parcels, except that all parcels shall be entitled to at least one sign unless prohibited by other sections of this Code.

(c) There shall be a minimum of a ninety-six (96) foot separation, measured by a radius, maintained between signs on residentially zoned parcels.

(d) In determining maximum height and maximum sign area, a distance radius of one-hundred and twenty (120) feet, measured by a radius, shall be extended in every direction outward from the location of the sign to determine the appropriate zone classification of the adjacent parcels. When using Table 7.14-1, the following classifications shall apply:

i) When the parcel where the sign is to be located is zoned non-residential the C/C classification shall apply if the radius only intersects the parcel lines of non-residentially zoned parcels;

ii) When the parcel where the sign is to be located is zoned non-residential the C/R classification shall apply if the radius intersects the parcel lines of both non-residentially and residentially zoned parcels;

iii) When the parcel where the sign is to be located is zoned non-residential the C/C classification shall apply if the radius does not intersect any other parcel; or,

iv) When the parcel where the sign is to be located is zoned residential the R classification shall apply. the radius only intersects the parcel lines of residentially zoned parcels.

(e) Freestanding signs erected in a median within an access way to a development shall be set back a minimum of four (4) feet from the face of curb, or from the edge of adjacent pavement where no curb exists, to a height of at least thirteen and a half (13.5) feet above the adjacent pavement. In addition, such signs shall be set back a minimum of ten (10) feet from the near right-of-way of any adjacent street, from a height of thirty (30) inches to eight (8) feet above the adjacent pavement. Freestanding signs created in a median shall not exceed sixty (60) square feet.

(2) Sign face area.

(a) The maximum accumulative total square footage of sign area of all signs allowed per right-of-way frontage for any parcel shall not exceed four-hundred and eighty (480) square feet or the amount determined in (d) below whichever is less.

(b) For the purpose of this Code, all sign face square footage calculations shall be computed for a single-face. When a sign has two (2) or more faces, it is a multifaced sign. The computation of the area for a multifaced sign shall be as follows:

i) the total square footage of a multifaced sign shall be calculated by enclosing all vertical planes to create a solid geometric shape (excluding horizontal planes, support structures, or other decorations without copy and area devoted to address). The total of all surface areas determined above shall be divided by two (2) to determine a single face sign area equivalent for the multifaced sign. Refer to Table 7.14-1 for the maximum single-face equivalent sign area allowable.

(c) The total square footage for any single-faced sign shall be no larger than the square footage allowed on Table 7.14-1.

(d) To determine maximum single face sign area square footage allowed per right-of-way frontage for any parcel calculate the following:

i) Land area of a parcel in square footage unless the depth of the parcel exceeds the frontage by four (4) times or more, whereupon multiply by 0.4 and then calculate ii) or iii) below whichever applies;

ii) If the total square footage is 130,680 square feet or less, maximum single face sign area allowable shall be equal to the total parcel square footage (i above) times .003 or three hundred (300) square feet whichever is less; or,

iii) If the total square footage is greater than 130,680 square feet, the maximum single face sign area allowable shall be equal to the total parcel square footage (i above) times .002 or three hundred (300) square feet whichever is greater.

(e) If the parcel's frontage is fifty (50) feet or less, maximum single face sign area shall not exceed one hundred twenty (120) square feet or the maximum single-face sign area as calculated in (d) above, whichever is less.

(f) Address/street numbers are required on at least one freestanding sign per parcel with a minimum height of six (6) inches for the numbers. This shall not be calculated in the total sign area.

(3) Freestanding signs shall not be permitted in conjunction with roof signs or projecting signs.

(4) The primary identification sign at a shopping center may show name or logo of an outparcel, outbuilding, or adjacent parcel, provided;

(a) Access to the outparcel, outbuilding, or adjacent parcel can be made through the shopping center; and,

(b) The outparcel, outbuilding or adjacent parcel and the shopping center are common to a planned commercial development or both parcels are subject to a recorded Unity of Control document with Palm Beach County as a third party beneficiary, insuring reciprocal ingress and egress.

However, the land area of the outparcel, outbuilding or adjacent parcel shall not be included when calculating the allowable sign area for the shopping center identification sign.

b. Wall signs.

(1) No sign shall be mounted at a distance measured perpendicular to the surface of a building greater than thirty-six (36) inches from the surface of the building to the face of the sign. The total square footage of all wall signs on any wall shall not exceed in surface area or sign area one and one-half (1 ½) times the length of the exterior wall of the individual business establishment to which it is attached.

(2) Side wall or rear wall signage shall not exceed fifty (50) percent of the maximum square footage specified by Sec. 7.14.I.6.b.1. Side wall or rear wall signage adjacent to residential parcels shall not exceed twenty-five (25) percent of the maximum square footage specified by Sec. 7.14.I.6.b.1.

(3) There shall be a minimum separation of three (3) feet between wall signs. No wall sign shall cover wholly or partially any required wall opening.

(4) No wall sign shall coexist with any projecting sign, except projecting signs under cover in Sec. 7.14.I.6.c.

(5) Signs located on the building shall be considered wall signs. The maximum height of a wall sign shall be six (6) inches below the peak of the roof at the location of the sign.

(6) Solid doors with signage shall be included in calculating the maximum allowed square footage of wall signage.

(7) **Awning signs.** Awning signs are considered wall signs.

(a) **Non-functional awnings.** When signage is attached to or incorporated into non-functional awnings, the entire awning shall be considered a sign.

(b) **Functional awnings.** Signage attached or incorporated into awnings which function as cover or shade, shall be calculated by enclosing the copy area of the lettering or logo and applying the wall sign standards of Sec. 7.14.I.6.b.

c. **Projecting signs under cover.** Projecting signs shall be permitted under canopies or covers in conjunction with pedestrian walkways, however, the sign copy shall not be readable from the street. The maximum square footage shall not exceed six (6) square feet.

d. **Electronic message center signs.**

(1) It is the intent of Palm Beach County Board of County Commissioners to provide electronic message center signs as signage option for regional facilities or specialized attractions which by their operating characteristics are unique in their sign requirements. Facilities which may be found by the Board of County Commissioners to be appropriate for electronic message signage would typically be mixed use in character have serial performances and be regional in attraction and scale.

(2) All the following electronic message center signs are exempt from the requirements of this subsection regulating electronic message center signs. Exempt electronic message center signs shall comply with all substantive and procedural requirements of the building, electrical and sign code as applicable.

(a) Electronic message center signs that display time, date, temperature or related weather information only, provided the message unit is less than twenty (20) square feet in area or twenty-five (25) percent of the total allowable sign area, whichever is greater.

(b) Electronic message center signs that are interior to a project and are not readable from any of the following:

i) any adjacent parcel;

ii) within any structure on any other parcel; or,

iii) six foot or less above grade level from any adjacent public or private right-of-way.

(3) The following are prohibited:

(a) Flashing lights or signs alone or in conjunction with an electronic message center sign;

(b) Electronic message center signs for restaurants, golf courses, hotels or motels, professional or medical offices, or retail establishments, except regional malls in excess of one (1) million square feet. This prohibition shall not be construed to prohibit electronic message signs at mixed use facilities;

(c) Any message that resembles traffic controlled devices or any items or messages that are determined to be confusing or misleading as a traffic control device;

(d) Electronic message center signs in windows, such as stock market reader boards;

(e) Computer attention getting message delivery systems including but not limited to the following: twinkle; flash; zoom; roll; scroll;

(f) No reflectorized lamps; and,

(g) No lamps over thirty (30) watts.

(4) Development permits for electronic message center signs shall require approval as a conditional use class "A". The application, review and approval processes shall occur pursuant to Sec. 5.4.E of this Code.

(5) Criteria for Issuance of a Permit. The criteria set forth herein are in addition to the development regulations set forth in this section and this Code. In the event of a conflict in regulations, the most strict shall apply.

(6) Prior to certification by the Development Review Committee of an application for a development permit for an electronic message center sign, staff shall find that the proposed sign complies with the following locational and design requirements:

(a) **Locational criteria.**

i) All electronic message center signs shall be located in a CG-Commercial General, CRE-Commercial Recreation, PO- Public Ownership or IL-Light Industrial zoning district.

ii) No electronic message center sign shall be located on any parcel or within any development that is contiguous on any side parcel line to land that is designated by the Comprehensive Plan or is used as residential.

iii) Electronic message center signs shall not be readable from any land that is designated by the comprehensive plan or used as residential.

iv) Electronic message center signs shall only be located or fronting on roadways classified as arterials or expressways.

v) Electronic message center signs shall be located a minimum of one thousand (1,000) feet from any expanded signalized intersection and shall not be readable from the intersection.

vi) No more than one electronic message center sign shall be permitted per development or event.

(b) **Design requirements.**

i) The height of all electronic message center signs shall be determined by utilizing Table 7.14-1.

ii) The applicant shall provide assurance that the message unit:

a) shall not change copy, light, color, intensity, words or graphics more than once per two (2) seconds;

b) shall not exceed thirty-five (35) percent of allowable single-face square footage in area; and,

c) shall not exceed fifty (50) percent of allowable single-face square footage in area on expressways.

(c) Electronic message center signs shall comply with the following minimum setback requirements:

i) front = fifteen (15) feet.

ii) side interior = thirty (30) feet.

iii) side corner = fifty (50) feet.

(7) In reviewing applications for electronic message center signs, the Board shall impose conditions as necessary to assure that the sign is compatible with and minimizes adverse impacts on the area surrounding the proposed sign, including but not limited to conditions related to:

(a) enhanced landscaping;

(b) visual buffers of earth or vegetation material;
(c) height limitations;
(d) additional restriction on the frequency of message change;
(e) orientation or location of the proposed sign;
(f) find that the sign will be designed to minimize potential distraction or confusion to passing motorists;
(g) find that the sign is of the same architectural character as the principal use;
(h) find that the sign will not be a nuisance to occupants of adjacent and surrounding properties by its size, brightness, movement or location; and,
(i) find that the sign is accessory to a use which by its nature demonstrates a unique need to communicate more information than is ordinarily needed for a business or attraction. Further, the Board shall find that the use is regional in scale and attraction.

(8) Effect of issuance of a permit for an electronic message center sign. The development order for the electronic message center sign shall be subject to the time limitation on use of development orders pursuant to Sec. 5.8 of this Code.

[Ord. No. 93-4] [Ord. No. 94-23]

J. Master sign plan. The purpose and intent of a master sign plan is to provide a master record of signs on a parcel and to assure compatible sign applications. Further, the intent of this section is to create unification of signage within parcels but not between parcels that are common to a planned commercial development and out-parcels shall be treated separately.

1. The following uses shall be required to submit a master sign plan to the Zoning Division:

a. Conditional Use, Class A (BCC Approval);

b. Conditional Use, Class B (ZC Approval);

c. Planned Development Districts; and,

d. Development Review Committee (DRC) Review Thresholds, Article 6, Table 6.4-2.

2. A master signage plan shall be submitted prior to site plan certification and shall consist of the following:

a. An accurate plot plan of the subject parcel, with the property control number for reference, at such scale as the Zoning Director may reasonably require;

(1) Location of buildings, parking lots, driveways, and landscaped areas on subject property;
(2) Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the subject property;
(3) An accurate indication on the plot plan of the proposed location of each present and future sign of any type; and,
(4) A visual representation of unified color, unified graphics, base planting details, materials and illumination and conformance to all sign related standards. Colors utilized by a business or corporation which are recognized on a national basis as an identification factor or element may be exempted by the Zoning Director.

K. **Sign and Premises Maintenance.** All freestanding signs and premises surrounding the same shall be maintained by the owner thereof in a clean, sanitary, and inoffensive condition, and free and clear of all noxious substances, rubbish and weeds.

L. **Technical standards.**

1. **Construction generally.** Unless exempted signs shall be constructed and installed in accordance with the technical standards administered in the Building Codes Enforcement Administrative Code, as amended from time to time, which is incorporated herein by reference.

2. **General standards for all zoning districts.**

   a. Where other sign or outdoor advertising regulations are in effect and are more restrictive than the provisions of this section, the more restrictive provisions shall prevail.

   b. Reflectors and lights shall be permitted on ground signs and wall signs, provided, however, that the light source shall provide proper shielding so as to prevent glare upon adjacent residential land.

   c. No sign shall exceed thirty (30) feet in height, except as provided herein.

   d. No portion of any sign shall project over a public sidewalk or right-of-way. Any sign located in required landscaped areas shall comply with Sec. 7.3 (Landscaping and Buffering).

M. **Removal or alteration of certain signs.** Unsafe or dangerous signs shall be removed or improved in accordance with the Palm Beach County Building Codes Enforcement Administrative Code.

N. **Labels required on signs.**

1. Every sign erected, constructed, painted, or maintained, for which a permit is required shall be plainly marked with the name of the person erecting, painting, and maintaining such sign, and shall have affixed on the sign and visible from the parcel the number corresponding to the permit issued for the sign.

2. Upon issuance of a sign permit to a sign contractor, the Building Director shall issue a permit tag, showing the number corresponding to the permit, which, at the time the sign is erected, shall be attached to the sign so that it can be clearly seen.

3. The absence of such tag shall be prima facie evidence that the sign or advertising structure is being operated in violation of this section.

O. **Persons responsible for compliance.** Persons who shall be charged with violations of this section are:

1. The owner, agent, lessee, tenant, contractor, or any other person using the land, building, or premises where such violation has been committed or shall exist;

2. Any person who knowingly commits, takes part or assists in such violation; and,

3. Any person who maintains any land, building, or premises in which such violation shall exists.

P. Administration and enforcement of this section.

1. **Authority.** The Board of County Commissioners by itself or through PZB shall adopt procedures for enforcing and administering this section and to employ those persons necessary for such administration and enforcement.

2. **Building Codes Enforcement Administrative Code.** The Building Codes Enforcement Administrative Code, as may be amended from time to time, is hereby adopted by reference and is incorporated herein, and is intended to provide for the administrative aspects of the Sign Code.

3. **Removal of signs in violation of this section.**

   a. **Illegal signs in general.** All signs, banners and other fixtures or structures governed by this section (Signs) shall conform to the regulations herein. A sign not erected, constructed or located in conformance with this section is an illegal sign.

   b. **Procedures for notification, removal and storage of illegal signs.** Except as provided in subsection c (Illegal Signs In Rights-of-Way) below, Palm Beach County shall enforce sign regulations according to the procedures outlined in this subsection and as provided for in the Palm Beach County Code Enforcement Citation Ordinance.

      (1) **Tagging.** If a sign is erected, constructed or located in violation of this Code, the County shall attach a notice to the sign stating the violation and any corrective measures needed to bring the sign into compliance with this section. The notice shall further specify that the sign will be removed after 10 days have lapsed from the date the tag was placed on the sign, if the specified corrective measures have not been taken.

      (2) **Removal and storage.** If corrective measures have not been complied with after 10 days of placement of the tag on the sign, the Department shall remove and store the sign in an appropriate storage facility at the expense of the sign owner or the owner of the parcel upon which the sign is located. The storage period shall be at least 30 days.

      (3) **Notice.** Upon removal and storage of the sign, a Notice of Violation and Removal and Storage shall be sent directly to the named owner of the sign, if the owner's address can be readily ascertained from the sign or the address where the sign was located. The notice shall also provide information as to where the sign is stored, how the sign may be reclaimed and the owners right to appeal.

      (4) **Return or destruction.** Any sign which has been removed from private property pursuant to the above provisions, may be claimed by and returned to the property owner. Release of any sign shall be by written authorization of the Director of Code Enforcement upon showing of ownership and payment of a sum appropriate to compensate the County for the expenses of locating, tagging, notice, removal, and storage of the sign.

      Any sign that remains unclaimed after 30 days from the date of removal shall become the property of the County and may be disposed of in any manner deemed appropriate by the County.

Destruction of the illegal sign shall not extinguish any claim for payment of unpaid fees. Any cost associated with removal of an illegal sign, including cost of collecting unpaid license fees, may also be assessed to the sign owner and the owner of the property upon which the sign is located. No new sign permit application shall be accepted from the owner of the illegal sign until all fees and costs associated with removal and storage of any illegal sign(s) are paid.

c. **Illegal signs in public rights-of-way.** Unless explicitly provided for in this Section or otherwise by law, or agreement with the appropriate government agency, no sign shall be located in public rights-of-way. Signs or other structures located in public rights-of-way shall be considered illegal, a safety hazard and a trespass upon public property.
Illegal signs in public rights-of-way shall be immediately removed by the County. Such signs need not be stored and may be immediately disposed of in any manner deemed appropriate by the County. However, if the approximate reasonable value of the sign or other structure is greater than three hundred dollars ($300) and the sign bears the name of the owner, the sign owner shall be notified and the sign shall be removed and stored, and returned or destroyed in accordance with procedures in Sec. 7.14.P.3.b (Procedures for Notification, Removal and Storage of Illegal Signs), above.

d. **Use and removal of political campaign signs.** Use and removal of political campaign signs shall be governed by Sec. 106.1435, Fla. Stat. (Usage and removal of political campaign advertisements), except that the good faith effort to remove all signs shall be made within ten (10) days after the election.

e. **Procedure for appealing the removal of a sign in violation of this section.** The sign owner may appeal the action of Palm Beach County by delivering a written request for an administrative hearing to the Director of Code Enforcement within 30 days from the date of removal of any sign. Said request shall identify the specific sign in question and state the reason why the sign owner believes the removal of the sign was improper. In the event the County finds the sign to be legal, the fee for locating, tagging, noticing, removal or storage shall be waived.

4. **Other legal remedies.** In addition to all criminal penalties and other enforcement procedures, the Board of County Commissioners may institute any lawful civil action or proceeding to prevent, restrain or abate the following violations of this chapter:

a. The unlawful construction, erection, reconstruction, alteration, rehabilitation, expansion, maintenance or use of any sign or sign structure.

b. The illegal act, conduct, business, or use of, in or about such premises related to any sign or sign structure.

Q. **Off-premises signs.**

1. **Purpose and intent.** It is the purpose and intent of the Board of County Commissioners to prohibit billboards and similar large off premises signs in order to improve the aesthetic appearance of unincorporated Palm Beach County. It is also the purpose and intent of the Board of County Commissioners to remove and amortize all billboards and similar large off-premises signs in order to cure

the visual and aesthetic degradation caused by these structures and to achieve the goal of an aesthetically improved built environment. Small off-premises signs which are directional in nature are permissible.

2. **Types prohibited.** No off-premise sign greater than twenty-four (24) square feet in sign face or eight (8) feet in height shall be permitted.

3. **Permitted off-premises directional signs.** Off-premises signs shall be for communicating information directional in nature to the general public and shall be permitted and approved with conditions and upon compliance with the following:

   a. Off-premises directional signs shall only be permitted to be erected at a property line adjacent to an arterial or collector street and shall be within fifty (50) feet of the point of ingress.

   b. Off-premises directional signs shall only be allowed where parcels have access but have no frontage on that arterial or collector street.

   c. All off-premises directional signs shall be located a minimum of five (5) feet from all base building lines.

   d. Each parcel, on which the off-premises directional sign is erected, shall not have more than one freestanding off-premises directional sign per access or frontage. Outparcels of a valid planned commercial developments shall be considered separate parcels.

   e. Off-premises directional signs shall not exceed twenty-four (24) square feet nor be more than eight (8) feet in height.

   f. Off-premises directional signs shall only be directional in nature. At least fifty (50%) percent of the sign shall be for directional purposes with no more than fifty (50%) percent of the sign dedicated for name or logo identification. The standard sign size shall be four (4) foot by six (6) foot.

   g. Off-premises directional signs shall only be permitted on parcels as follows:

      (1) Parcels adjacent (common property lines) to the parcel identified on the directional sign; and,
      (2) Parcels subject to a recorded unity of control document, with Palm Beach County as a third party beneficiary, insuring ingress and egress to the parcel identified on the directional sign.

4. **Freestanding structure required.** Off-premises signs shall be completely independent, freestanding structures. They shall not be attached to any other structure, nor shall any structure, including other signs, be attached to an off-premises sign.

5. **Prohibited in rights-of-way and easements.** No off-premises sign shall be erected in any public or private right-of-way or easement.

6. **Applicability of the other provisions.** Unless expressly provided to the contrary, all other provisions of this section shall apply to the construction, reconstruction, establishment, and maintenance of an off-premises sign.

7. **Special inspection requirements.** No off-premises sign shall be erected, reconstructed, or replaced without having been subject to a final, on-site inspection by the PZB Department.

   a. A tie-in survey shall be provided to the PZB Department prior to or at the time of final on-site inspection for each off-premises sign which shall be erected, replaced, or substantially reconstructed after March 10, 1986. The tie-in survey shall be prepared by a land surveyor licensed to practice in the State of Florida. The survey shall certify that the off-premises sign has been properly placed with respect to all height, setback, spacing, and other locational standards of this section and of Florida law.

   b. Any off-premises sign which is erected, replaced, or substantially reconstructed in contravention of this section shall be considered to be an illegal sign and subject to enforcement as provided by law.

8. **Removal of illegal signs.**

   a. The PZB Department shall remove any illegal off-premises sign without further notice if the permit holder does any of the following:

      (1) Fails to appeal within the time permitted.
      (2) Fails to pay required license fees within the time allowed.
      (3) Violates this section in any other way.

   b. The PZB Department may remove the illegal off-premises sign itself or arrange to have it removed by a contractor.

   c. Removal of the illegal off-premises sign shall not extinguish any claim for payment of unpaid fees. Any costs associated with removal of an illegal off-premises sign, including costs of collecting unpaid license fees, shall also be assessed to the permit holder. No new permit applications shall be accepted from the same permit holder until all fees and costs associated with removal of illegal off-premises signs are paid.

9. **Nonconforming off-premises signs.**

   a. All off-premises signs and structures existing and in place on November 28, 1988, except those that are less than twenty (20) square feet in sign face and eight (8) feet in height, are declared nonconforming to this section. Any legally issued building permits for off-premises signs issued prior to this date shall be honored, but shall be subject to the amortization schedule established by this section. Such building permits shall not be renewed if they expire for any reason.

   b. All signs and sign structures which are non-conforming to the standards of this section but which were erected lawfully because of a variance previously granted or because of conformance with the previously existing sign regulations at the time their permit was issued or the time the sign was erected, shall be removed according to the schedule in Sec. 7.14.Q.9.d.(3) by the owner of the sign or the owner of the land or be brought into compliance with the terms contained herein, except for the following:

(1) Any nonconforming sign located on an interstate or federal aid primary highway which is protected from removal by the Federal Highway Beautification Act or Chapter 479, Florida Statutes, by reason of providing compensation for removal shall be exempted from the removal terms of this subsection. This shall not, however, preclude Palm Beach County from seeking to remove any such sign through an eminent domain proceeding, nor achieving sign conformance by other lawful means. In the event the Federal Highway Beautification Act or Chapter 479, Florida Statutes, is repealed, amended or adjudicated to not require compensation, then the removal provisions contained in (c) below shall apply.

c. Amortization schedule.

(1) For the purposes of this section, an amortization schedule is hereby established. The date of notice of amortization to the underlying land owners and sign owners shall be nine (9) months from the effective date of this section. The amortization period set out in section (2) below shall commence at the date of notice of amortization.

(2) The following is the amortization schedule for those prohibited, nonconforming off-premises signs:

(a) Off-premises signs shall be removed five (5) years from the official amortization date, November 28, 1988.

(b) Additional amortization shall be provided for signs in existence five (5) years or less upon timely request of the sign owner to the director of the planning, zoning and building department, submission of adequate documentation regarding the sign, and approval of the request by the director as provided below:

i) Those off-premises signs that have been in existence for less than three (3) years shall be removed eight (8) years from the official amortization date.

ii) Those off-premises signs that have been in existence from the three (3) years to five (5) years shall be removed six (6) years from the official amortization date.

(c) It shall be the responsibility of a sign owner or underlying property owner seeking additional amortization based on the existence of the sign for five (5) years or less to submit a written request to the director of the planning, zoning and building department at least ninety (90) days prior to the expiration of the five-year amortization period. Such requests shall contain sufficient documentation to determine the age of the sign. Documentation shall be by copy of a building permit, construction contract, or other documentation determined to be sufficient by the director to determine the age of the sign. Documentation shall also include a copy of the current tag number of the sign and the legal description of the property on which the sign is located. The director shall make a written determination regarding the request for additional amortization. If the director determines the information provided is insufficient to determine the age of a sign, the request for additional amortization shall be denied. **[Ord. No. 93-4]**

(3) If a land owner of the sign or sign structure believes the schedule in section 2 above does not minimize its loss, recoup its initial investment, or is generally unreasonable given the specific conditions of that sign or sign structure, the land owner or sign owner may petition the Board of Adjustment for an extension of the amortization time period. The Board of Adjustment may extend the amortization time period for up to an additional five (5) years if it concludes that a particular sign or sign structure requires additional time to minimize its loss or recoup its investment. The petition for additional amortization shall be submitted to the Board of

Adjustment at least ninety (90) days prior to the expiration of the five (5) year amortization period.

(4) In an effort to encourage compliance with the schedule in (2) and reduce litigation expense, the underlying land and sign owner may waive the right in (3) in exchange for an additional two (2) years of amortization. The waiver shall be in the form of a legal instrument signed by the sign owner, the underlying land owner and any person or entity having a legal and equitable interest.

d. Pursuant to Sec. 171.062 of Fla. Stat., legal nonconforming signs which exist on land annexed into a city on or before the city amends its comprehensive plan and zoning code to directly conflict with the provisions of this section shall be subject to the removal or compliance provisions contained in this section.

R. License.

1. Required.

a. No person shall erect, operate, use, or maintain, or cause to be erected, operated, used or maintained, any off-premises sign within the unincorporated area of the county without first obtaining an annual license. This annual license shall apply both to each off-premises sign existing on March 10, 1986, as well as to each off-premises sign which may be erected after such date. Legally permitted off-premises directional signs as allowed by Sec. 7.14.Q.3. shall be excluded from obtaining an annual license.

b. Any off-premises sign which is erected, operated, used or maintained in violation of this section shall be considered an illegal sign, and immediately subject to enforcement action as provided by law.

2. Fee.

a. No person shall erect, operate, use or maintain, or cause to be erected, operated, used or maintained, any off-premises sign within the unincorporated area of the county without first paying an annual license fee. This annual license fee requirement shall apply both to each off-premises sign existing on March 10, 1986, as well as to each off-premises sign which may be erected after such date. The proceeds of the annual license system shall be used by the PZB Department to defray the costs of administering this chapter.

b. The annual license fee for an off-premises sign shall be fifty dollars ($50.00) for each off-premises sign face. For signs to be erected hereafter, the annual license fee shall be paid upon application for a permit to erect an off-premises sign. For all off-premises signs existing on March 10, 1986, the annual license fee shall be payable upon the expiration date established below. The annual permit fee shall be prorated in the first year that an off-premises sign is erected by payment of an amount equal to twenty-five (25) percent of the annual fee for each remaining whole quarter or partial quarter of the permit year remaining. The license fee shall be reviewed in 1988 and each year thereafter and may be adjusted as necessary to defray the costs of administering this chapter.

c. On or before July 1 of each year, the PZB Department shall:

(1) Provide an inventory to each permit holder of all currently valid permits which were issued to him prior to that date.
(2) Notify the permit holder of all annual license fees due.
(3) Inform the permit holder of the procedures he shall follow to pay required license fees.
(4) Inform the permit holder of the consequences of failure to pay required license fees. The permit holder shall thereupon notify the PZB Department no later than September 1 of each year of any additions, deletions, omissions, or errors in the annual inventory and license fee calculations. Upon receipt of a corrected inventory list from the permit holder, the PZB Department may adjust the amount of license fees charged or may reject the permit holder's claims.

3. **Expiration; renewal; license tags.** Each annual off-premises sign license shall expire on September 30 of each calendar year. All license fees shall become due and payable on October 1 of each calendar year. License tags shall be prominently displayed upon the off-premises sign in order to be visible from the street.

a. Violations.

(1) If a permit holder fails to submit fees required by this section prior to or upon the annual expiration date, the PZB Department shall:
(a) Immediately issue a notice of violation in the form specified in Sec. 7.14.Q.11.e.(3) below; and
(b) Suspend acceptance of any new applications for off-premises signs from the same permit holder. No new permit applications shall be accepted from the same permit holder until final resolution of any disputes arising from the PZB Department's actions.
(2) In the event that disputes arise regarding the amount of annual license fees charged, the permit holder may establish an escrow account into which he shall pay an amount equal to that portion of fees and other charges assessed by the PZB Department which is in dispute. The PZB Department shall be named as the beneficiary of the escrow account. This escrow account shall be established prior to the annual expiration date and shall remain in effect until final resolution of the dispute. Affected off-premises signs shall continue to be treated as illegal signs; however, as long as the escrow account remains in effect, they shall not be removed as provided in this division.
(3) The notice of violation shall be sent by certified mail, return receipt requested. At a minimum, it shall:
(a) Indicate the total amount of annual license fees due.
(b) Indicate that the permit holder has thirty (30) days from the date of mailing in which to pay the total fee due.
(c) Assess an additional delinquency fee equal to twenty-five (25) percent of the amount due.
(d) Inform the permit holder that failure to pay all required fees within the time allowed shall constitute a violation of this chapter and his off-premises signs shall thereupon be considered to be illegal.
(e) Inform the permit holder of the process established by this chapter for the removal of illegal signs.
(f) Inform the permit holder of his right to appeal the action of the PZB Department, as provided in this division.

b. A copy of the notice of violation may also be prominently affixed to each off-premises sign. **[Ord. No. 93-4; February 2, 1993] [Ord. No. 94-23; October 4, 1994]**

SEC 7.15 MAINTENANCE AND USE DOCUMENTS.

A. **Purpose and Intent**. This section is established to ensure that adequate ownership and maintenance measures will be provided in residential and other developments to protect and perpetually maintain all Common Areas or other required areas (including improvements located upon or within the Common Areas) required pursuant to this Code or other applicable County ordinances or regulations. This section is also established to ensure the continued availability and utility of the Common Areas for the residents or occupants of the development and to prevent such facilities or the need for such facilities from becoming an unnecessary burden or nuisance to the County or surrounding property. Nothing in this section shall be construed as creating any obligation upon the County to maintain such Common Areas or their improvements or to otherwise ensure their availability and condition.

B. **Applicability**. This section shall apply to all developments subject to review by the Development Review Committee as delineated elsewhere in this Code. Developments for which waivers of platting are administratively obtained shall also comply with the requirements of this section.

C. **Exception**. Generally, the maintenance and use documents requirement shall not apply to lands or improvements to be owned and maintained under a condominium or cooperative. The developer of any lands to be owned and maintained under a condominium or cooperative shall establish and regulate those in accordance with the requirements set forth by The State of Florida. If the condominium or cooperative is located within a Planned Unit Development, though, additional County document requirements may apply.

D. **General Requirements**. A developer shall submit documents establishing maintenance and use of the Common Areas of a proposed development and other required areas at the point in the development process set forth in Article 8 Sec. 8.20 of this Code or as required as a condition of approval by any decision making or administrative body of the County. All documents shall be reviewed and approved by the County Attorney's office prior to recording in the public records. The recording of the documents and all associated fees shall be the responsibility of the developer. All documents shall be recorded as approved by the County Attorney's office, and copies of the recorded documents shall be submitted to the County when requested.

E. **Documents Establishing Maintenance and Use**. The type of document required to establish use rights and responsibility for maintenance of the Common Areas of a development depends upon the nature of the development.

1. **Developments including a subdivision of five (5) or more lots.** A Property Owners' Association shall be required. Developer shall submit a Declaration of Covenants and Restrictions, Articles of Incorporation, and By-Laws. If there are to be party walls within the development, the Declaration of Covenants and Restrictions shall include a Declaration of Party Wall. This requirement applies to both residential and non-residential developments.

2. **Subdivisions of a maximum of four (4) lots.** A Property Owners' Association may or may not be required depending upon the individual subdivision. The determination shall be made by the County Attorney's Office. If a Property Owners' Association is required, then the submittal requirement shall be as listed above. If a Property Owners' Association is not required, then the Developer shall submit a Unity

of Control. If there are to be party walls within the development, a Declaration of Party Wall shall be included in the submission.

3. **Rental Projects**. A Unity of Title shall be submitted for a development that will be owned and maintained by a landlord for the benefit of lessees residing on or occupying leaseholds on a Lot or Parcel.

F. Content Requirement for Documents. The following shall be the minimal content requirements for documents. Provisions which do not conflict with any County requirements may also be included.

1. **Property Owner's Association Documents.**

a. **Declaration of Covenants and Restrictions.**

(1) **Legal description**. For master associations: All property included within the Master Plan for a development (no matter how many phases in which it shall be developed) shall be subjected to the terms of the Declaration at the time the first plat of the development is recorded. Property shall not be withdrawn from the terms of the Declaration unless it is also withdrawn from the Master Plan.

For sub-associations: All property included within a plat in which a sub-association is named in a dedication/reservation shall be subjected to the terms of the Declaration for that sub-association at the time the plat is recorded.

(2) **Definition**. There shall be a section in the Declaration in which, minimally, the following terms (or similar terms) are defined: Association, Common Areas, Member, Properties, Declarant/Developer, Unit/Lot/Parcel.
The definition of Association shall include the name of the property owners' association responsible for maintaining the Common Areas of the development. The association named here must be the same association that accepts the dedications/reservations on any plat of the development. The Association shall be a Florida corporation not for profit.
The definition of Common Areas shall include the phrase "any area dedicated to or reserved for the Association on any recorded plat or replat of the Properties".
The definition of Member shall reflect the requirement that all persons or entities holding title to any portion of the Properties shall be voting members of the Association. In the case of a master association, this may be accomplished either by direct membership by all owners or by the owners' sub-association membership with the sub-association(s) being the voting member(s) of the master association. The definition must specifically allow direct membership for any owner who is not a member of a represented sub-association.

The definition of Properties shall include all the property subject to the terms of the Declaration including any added by amendment to the Declaration.

The definition of Declarant/Developer shall include successors and assigns.

The definition of Unit/Lot/Parcel shall identify the division of property by which membership in the Association is defined and shall be consistent with the terms used to define Member in the Declaration.

(3) **Association structure and responsibilities**. There shall be provisions for the following:

(a) All persons or entities owning any portion of the development shall automatically become members of the Association.
(b) All members of the Association shall be entitled to vote on Association matters.
(c) The Association shall have the authority to assess all members for Association expenses including, but not limited to, the cost of maintaining the Common Areas.
(d) All members of the Association, except any governmental entity which may own property in the development, shall be subject to assessments by the Association. The developer shall either pay assessments or fund the deficit in the Association's operating budget until he has turned over control of the Association. After he has turned over control of the Association, he shall pay assessments for any lot(s) he may still own.
(e) The Association shall have the authority to place a lien on a member's property for any unpaid assessment.
(f) The developer may control the Association while development is ongoing. He must, however, establish in the Declaration a definite time by which he will turn over control of the Association to the owners.
(g) The Declaration shall provide that the Association shall be responsible for the maintenance of the Common Areas. Maintenance responsibility may be delegated to a sub-association or to an individual lot owner (in the case of certain limited use areas), but the delegating association shall be responsible in the event the sub-association or the lot owner fails to maintain any portion of the Common Area or other required areas.

(4) **Common areas.** The common areas shall be defined to include any area dedicated to or reserved for the Association on any recorded plat of the Properties. The developer shall state at what point he will deed the Common Areas to the Association.

(5) **Easements.** The following easements shall be granted (or confirmed if already established by recorded plat or grant of easement):
(a) Ingress/egress easements for members, their guests, and licensees.
(b) Utility easements for installation, maintenance, and repair by any utility company, including cable, servicing the development.
(c) Drainage easements.
(d) Maintenance easements for maintenance of the Common Areas. If the Association will need access to an owner's property to fulfill its maintenance obligation, the easement should be granted here.
(e) Encroachment easements for accidental encroachment onto the Common Area.
(f) Common Area easement for use by all members of the Association and their guests.
(g) Developer's easement to allow developer access as needed to complete construction of development.
(h) Public Service for police protection, fire protection, emergency services, postal service, and meter reading
(i) Zero-lot line easement, if applicable. A three foot easement contiguous to the zero-lot line boundary shall be established for the purpose of incidental encroachment, access and maintenance.

All easements, with the exception of the developer's easement, shall be perpetual.

(6) **Architectural control.** Any provisions included in the Declaration regarding architectural control should be consistent with Palm Beach County regulations. It should be noted in the Declaration that nothing in the Declaration should be interpreted as an exemption from compliance with County regulations.

(7) **General provisions.** There shall be provision for the following:
(a) **Duration.** The Declaration shall run with the land for a minimum of twenty (20) years with provision for automatic renewal.

(b) **Enforcement**. The Association, the individual members, and the developer shall all have the ability to enforce the terms of the Declaration.

(c) **Amendment**. The method by which the Declaration may be amended shall be established. If the developer is given a separate right for amending the Declaration, his right shall not survive the turnover of control. No amendment that withdraws property from the terms of the Declaration shall be recorded unless approved in writing by the County Attorney's office. No amendment inconsistent with the requirements of this section shall be recorded unless approved in writing by the County Attorney's office. Nothing contained herein shall create an obligation on the part of the County Attorney's office to approve any amendment.

(d) **Dissolution**. Any owner may petition the Circuit Court for the appointment of a Receiver to manage the affairs of the Association in the event of dissolution of the Association.

(8) **Articles of Incorporation**.

(a) All terms shall be consistent with the terms of the Declaration and By-Laws.

(b) The Property Owners' Association shall be a Florida corporation not for profit with, minimally, the authority to maintain Common Areas or other required areas, assess members for operating costs, place liens on members' property for failure to pay assessments, and enter into agreements with governmental entities.

(9) **By-Laws**. All terms shall be consistent with the terms of the Declaration and Articles of Incorporation.

(10) **Declaration of Party Wall**. A Declaration of Party Wall shall be recorded whenever there are shared walls in a development.The Declaration may be a part of a Declaration of Covenants and Restrictions or it may be recorded as a separate instrument. It should address the following:

(a) Repair of the wall is a joint obligation and expense unless damage is caused by the negligence of one party; in that case the cost of repair is the obligation of that party alone.

(b) Repair or replacement of the wall shall be to its original construction.

(c) Each party shall have the right to file a lien for the cost of repairs.

(d) The mortgagee shall have the same rights as the mortgagor.

(e) Structural changes in the wall are prohibited.

(f) If there is a common roof, the same provisions shall apply.

(g) If access and/or parking are to be shared, there should be an easement granted to accommodate that.

(h) This shall be a covenant running with the land.

(11) **Unity of Control**. A Unity of Control shall be recorded against a subdivision of a maximum of four (4) lots if the County Attorney's Office has exempted the subdivision from the requirements for a Property Owner's Association. The Unity of Control shall contain the following:

(a) Legal description of the property subject to the terms of the Unity of Control. This shall include all property included in the master plan for the development.

(b) Creation of perpetual cross-access, parking, drainage, and utility easements for the benefit of all owners of the development.

(c) Maintenance responsibilities for all common areas of the development and method by which maintenance costs shall be shared.

(d) Establishment of these provisions as covenants running with the land.

(12) **Unity of Title**. The owner of a rental project shall record against his property a Unity of Title. The Unity of Title, which shall be a covenant running with the land, shall provide that the property shall be considered one plot and parcel and that no portion of the property may be conveyed to another owner. The County Attorney's office, after consulting with the

Zoning and Land Development Divisions, may agree to release the Unity of Title provided that covenants establishing maintenance and use are recorded in its place. The cost of recording the Unity of Title and/or a release shall be the responsibility of the owner.

SEC. 7.16 RESERVED FOR FUTURE USE

SEC. 7.17 HISTORIC PRESERVATION PROCEDURES

A. **Purpose and Intent.** The purpose and intent of this section is to promote the health, safety and welfare of existing and future residents of Palm Beach County by protecting, enhancing and examining the historic resources of Palm Beach County. It is recognized that there are within unincorporated Palm Beach County and on County owned property in municipalities historic sites worthy of preservation and concentrations of historic buildings worthy of designation as historic districts. This section provides mechanisms to promote historic preservation in Palm Beach County by the designation of historic sites and districts, and the regulation of construction and demolition of historic sites and within historic districts.
[Ord. No. 95-8]

B. **Definitions.**

Subsection 1. Other Definitions. For purposes of this Section, except as specifically provided herein, the terms defined in the Unified Land Development Code of Palm Beach County, Florida, and the Plan, shall have the meaning therein.

Subsection 2. Terms Herein. The following terms shall have the meanings set forth below.

Adaptive Use: The process of converting a building to a use other than that which it was originally designed.

Alteration: Any change affecting the exterior appearance of an existing structure or improvement by additions, reconstruction, remodeling, maintenance or structural changes involving changes in form, texture, materials or color or any such changes in appearance in specially designated historic sites, or historic interiors.

Appurtenance: A part, possession, or other incidental part which is generally subordinate to, or adjoins the principal use of structure, i.e. fences, walls, steps, paving, sidewalks, signs and light fixtures.

Archeological Resources: All evidences of past human occupations which can be used to reconstruct the life ways of past peoples and evidence of past animal life in the form of non-human vertebrate fossils. These include sites, artifacts, environmental and all other relevant information and the contexts in which they occur. Archaeological resources are found in prehistoric and historic period sites and areas of occupation and activity.

Architectural Features: Architectural features include the architectural style, scale, massing siting, general design and general arrangement of the exterior of the building or structure, including the type, style and color of roofs, type and texture of building material, public access open courtyards, windows, doors, and appurtenances. These features will include interior spaces where the interior has been given historic designation under the procedures listed in Section VII of this ordinance.

Certificate of Appropriateness: A written document, issued under the terms and conditions of this ordinance, allowing specified alterations, demolition, construction, or other work to a designated historic site, or for a building or structure within a designated historic district.

Contributing Resource: Building, site, structure, or object adding to the historic significance of a property or district.

Cultural Resources: Districts, sites, structures, and objects and evidence of some importance to a culture, a subculture, or a community for scientific, traditional, religious, and any other reasons. These resources and relevant environmental data are important for describing and reconstructing past life ways, for interpreting human behavior, and for predicting future courses of cultural development.

Demolition: The act or process of wrecking, destroying, or removing any building or any exterior or structural part thereof.

Designation: The act of designating specific historic sites or districts pursuant to the provisions of this Code.

Designated Exterior: All outside surfaces of any improvement, building, or structure as defined in the historic preservation survey and pursuant to Section VI or an exterior designated under Section VI as having significant value to the historic character of the building, district, or County.

Exterior: The outside surfaces of a building.

Historic District: A geographically defined area with a significant concentration, linkage, or continuity of sites, improvements, or landscape features united by historic events or by plan or physical development, and which area has been designated as a historic district, pursuant to Section VI. Any historic district may have within its area contributing and non-contributing buildings or other structures that contribute to the overall visual character of the district.

Historic Resources: All evidences of human occupations that date from historic (i.e., recorded history) periods. These resources include documentary data (i.e., written records, archival material, photographs, maps, etc.) sites, artifacts, buildings, structures and all other cultural resources and relevant information pertaining to them. Historic resources are cultural resources and may be considered archaeological resources when archaeological work is involved in their identification.

Improvement: Any building, structure, fence, gate, wall, walkway, parking facility, light fixture, bench, foundation, sign, work of art, earthworks, sidewalk, or other man-made objects constituting a physical change or betterment of real property, or any part thereof.

Landscape Feature: Any improvement or vegetation including, but not limited to: outbuildings, walls, courtyards, fences, shrubbery, trees, sidewalks, planters, plantings, gates, street furniture or exterior lighting.

Mitigation: A process designed to ameliorate adverse impact of an activity on a cultural resource by the systematic removal of the prehistoric, historic, or architectural data in order to acquire the fundamental information necessary for understanding the property within its proper historic context.

National Register of Historic Places: Official Federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture.

Non-contributing Resource: Building, site, structure, or object that does not add to the historic significance of a property or district.

Ordinary Maintenance or Repair: Any work for which a building permit is not required by law, where the purpose and effect of such work is to correct any physical deterioration or damage of an improvement, or any part thereof by restoring it, as nearly as practical, to its appearance prior to the occurrence of such deterioration or damage.

Palm Beach County Register of Historic Places: Official County list of archeological sites identified on the Map of Known Archeological Sites, and historic sites and districts designated by the Board of County Commissioners.

Preservation: The identification, evaluation, recordation, documentation, analysis, recovery, interpretation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, or reconstruction of historic properties.

Protection: The act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss or attack, or to cover or shield the property from danger or injury. In the case of buildings and structures, such treatment is generally of a temporary nature and anticipates future historic preservation treatment; in the case of archaeological sites, the protective measure may be temporary or permanent.

Rehabilitation: The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historic, architectural and cultural value.

Restoration: The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time, by means of the removal of later work or by replacement of earlier work.

Site: For purposes of historic preservation, any area or location occupied as a residence or utilized by humans for a sufficient length of time to leave physical remains or traces of occupancy. Such localities are extremely variable in size, and may range from a single hunting camp to an extensive land surface with evidence of numerous settlements and activities areas, and the transportation networks linking them. A site may consist of secondarily deposited archaeological remains.

Structure: Means that which is three (3) feet or more in height which is built or constructed or erected or tied down having a fixed location on the ground or attached to something having a permanent location on the ground, such as buildings, homes, mobile homes, towers, walls, fences, billboards, shore protection devices and poster panels.

Undue Economic Hardship: An exceptional financial burden that might otherwise result in a taking of property without compensation or otherwise denies use of the property in an economically viable manner. **[Ord. No. 93-4]**

C. **Criteria for Designation of Historic Sites and Districts.**

1. To qualify as a designated historic site or historic district, individual properties, structures, sites or buildings, or groups of properties, structures, sites or buildings, the proposed site or district shall meet one or more of the following criteria:

   a. Is associated in a significant way with the life or activities of a major person important in County, State or National history, (i.e., the homestead of a local founding family), or

   b. Is the site of a historic event with significant effect upon the County, State or Nation, or

   c. Is associated in a significant way with a major historic event whether cultural, economic, military, or political, or

   d. Exemplifies the historic, political, cultural, or economic trends of the community in history, or

   e. Is associated in a significant way with a past or continuing institution which has contributed to the life of the County.

   f. Portrays the environment in an era of history characterized by one or more distinctive architectural styles, or

   g. Embodies those distinguishing characteristics of an architectural style, period or method of construction, or

   h. Is a historic or outstanding work of a prominent architect, designer, landscape architect, or builder, or

   i. Contains elements of design, detail, material or craftsmanship of outstanding quality or which represented, in its time, a significant innovation or adaptation to the South Florida environment.

2. A building, structure, site, or district will be deemed to have historic significance if, in addition to, or in the place of the previously mentioned criteria, the building, structure, site, or district meets the historic development standards as defined by and listed in the regulations of and criteria for the National Register of Historic Places, as prepared by the U.S. Department of the Interior under the Historic Preservation Act of 1966, as amended.

3. Properties not generally considered eligible for designation include cemeteries, birthplaces or graves of historic figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, buildings or sites primarily commemorative in nature, reconstructed historic buildings, and properties that have achieved significance less than fifty (50) years prior to the date the property is proposed for designation. However, such properties will qualify if they are integral parts of districts that do meet the previously described criteria or if they fall within one (1) or more of the following categories:

   a. A religious property deriving primary significance from architectural or artistic distinction of historic importance.

   b. A building or structure removed from its location but which is primarily significant for architectural value, or is the surviving structure most importantly associated with an historic event or person.

c. A birthplace or grave of a historic figure of outstanding importance if there is no other appropriate site or building directly associated with his/her productive life.

d. A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, distinctive design features, or from association with historic events.

e. A property primarily commemorative in nature if design, age, tradition or symbolic value have invested it with its own historic significance.

f. A building, structure, site or district achieving significance less than fifty (50) years from the date it is proposed for designation if it is of exceptional historic importance.

D. Application for Historic Site or District Designation.

1. Applications for historic site or district status may only be initiated by the Board of County Commissioners, the Historic Resources Review Board (HRRB) or the property owner of an individual site. A neighborhood or community association may initiate an application for historic district status. Application for historic district or historic site status for public property may also be initiated by any resident of Palm Beach County.

2. Upon receipt of an application for historic or district site status, the Department shall conduct a preliminary evaluation of the application to determine whether or not it has sufficient information to process the application. The Department shall make the determination that an application is sufficient within ten (10) working days of receipt of an application. If the application is not sufficient to process, the Department shall specify what additional information is necessary.

3. In the event the application as submitted is sufficient, the Department shall prepare a Designation Report for consideration at the next schedule HRRB meeting which shall contain the following information:

a. Proposed legal boundaries of the historic building, archaeological site, structure, or district; and,

b. Any proposed waiver of development regulations per subsection G - Waiver of Unified Land Development Code Provision.

c. Any conditions beyond the standards contained in the ULDC or conditions based on the standards of subsection 7-17 of this Code - Development Standards for Historic Districts and Sites.

d. An analysis of historic significance and character of the nominated property; and,

e. An analysis of public historic interiors for those buildings and structures with interior features of exceptional architectural, aesthetic, artistic or historic significance of those buildings which have public access.

E. Public Hearings Required for Historic Site or District Designation.

1. After the Department prepares its Designation Report, the HRRB shall conduct a public hearing to evaluate and receive comments regarding the application.

2. The Department shall transmit, by certified mail, a copy of the designation report and a notice of public hearing to the property owner(s) of record as of the date of nomination. This notice shall serve as notification of the intent of the HRRB to consider designation and must be mailed at least thirty (30) calendar days prior to the public hearing. In addition, all property owners within a 300-foot radius of the nominated site or district shall be sent courtesy notice of the public hearing. However, failure to receive such courtesy notice shall not invalidate the hearing. Notice shall also be provided by publishing a copy thereof in a newspaper of general circulation in Palm Beach County at least ten (10) calendar days prior to the date of the hearing. All interested parties shall be given an opportunity to be heard at the public hearing.

3. After a public hearing, the HRRB shall vote on the designation within thirty (30) calendar days at a public meeting. The recommendation of the HRRB shall then be transmitted to the Zoning Commission within sixty (60) calendar days of the vote.

4. The Board of County Commissioners shall hold a public hearing at the next available meeting to consider the recommendation of the HRRB regarding the designation of historic sites and districts.

5. At the conclusion of the public hearing the Board of County Commissioners shall consider the application, all relevant support materials, the Designation Report, the recommendations of the HRRB and the standards contained in Sec. 7.17 thereby adopting a resolution enacting or denying the historic district or site designation. The resolution designating a historic site shall be approved or denied by not less than a majority of the quorum present unless an affected property owner objects to the designation of a historic site, in which case a majority of the total membership of the Board of County Commissioners is required to approve the designation. The Board of County Commissioners shall take no action upon a proposed district designation if a majority of property owners in the proposed district or the owners of a majority of the land area in the proposed district object in writing filed with the Board of County Commissioners before the hearing. The identity of the property owners shall be determined by the Palm Beach County property tax roll. The resolution designating the historic site or historic district shall be recorded in the public records of Palm Beach County, Florida. The designation shall be noted on the Official Zoning Atlas by placing the designation H on the appropriate atlas page and indicating the boundaries of the historic district or site on the Zoning Atlas.

6. Any agency with authority to issue demolition permits shall be notified of all historic site or district designations. No later than eighteen (18) months after the first property or district is designated pursuant to this Code, the County shall amend the 1989 Comprehensive Plan to include an inventory of historic district boundaries and historically significant structures designated pursuant to this ordinance. Subsequent to the initial inclusion of the historic inventory in the Comprehensive Plan, the inventory shall be updated consistent with provisions for evaluation and appraisal of the Comprehensive Plan as provided in Sec. 163.3191, Fla. Stat., and submitted to the Florida Department of State for inclusion into the Florida Master Site File.

F. Development Standards For Historic Districts and Sites.

1. For the purpose of this ordinance, exterior architectural features shall include those characteristics as defined in Article 7 of this code.

2. A historic building, structure, appurtenance, site or district shall only be moved, reconstructed, altered or maintained in accordance with this ordinance in a manner that will preserve the historic and architectural character of the historic building, structure, appurtenance, site or district.

3. In considering proposals for alterations to the exterior of historic buildings and structures and in applying development and preservation standards, the documented, original design of the building may be considered, among other factors.

4. A historic site, building, structure, archaeological site, improvement, or appurtenance either within a historic district or individually designated, shall only be altered, restored, preserved, repaired, relocated, demolished, or otherwise changed in accordance with the Secretary of the Interior's Standards for Rehabilitation, as same may be amended from time to time.

5. Relocation of historic buildings and structures to other sites shall not take place unless it is shown that their preservation on their existing or original sites is inconsistent with the purposes of this ordinance or would cause undue economic hardship to the property owner. Relocation of any structures shall not affect the designation of an underlying archaeological site.

6. Demolition of historic sites, archaeological sites or buildings, structures, improvements and appurtenances within historic districts shall be regulated by the Historic Resources Review Board in the manner described in Sec. 7.17-I of the Unified Land Development Code.

7. The construction of new buildings or structures, or the relocation, alteration, reconstruction, or major repair or maintenance of a non-contributing building or structure within a designated historic district shall meet the same compatibility standards as any material change in the exterior appearance of an existing contributing building. Any material change in the exterior appearance of any existing non-contributing building, structure or appurtenance in a designated historic district shall be generally compatible with the form, proportion, mass, configuration, building material, texture, color and location of historic buildings, structures, or sites adjoining or reasonably proximate to the contributing building, structure or site.

8. All improvements to buildings, structures and appurtenances within a designated historic district shall be visually compatible. Visual compatibility shall be defined in terms of the following criteria:

   a. **Height.** The height of proposed buildings or modifications should be visually compatible in comparison or relation to the height of existing structures and buildings.

   b. **Front Facade Proportion.** The front facade of each building or structure should be visually compatible with and in direct relationship to the width of the building and to the height of the front elevation of other adjacent or adjoining buildings within a historic district.

   c. **Proportion of Openings (Windows and Doors).** The openings of any building within a historic district should be visually compatible with the openings exemplified by the prevailing historic architectural styles within the district. The relationship of the width of windows and doors to the height of windows and doors among buildings within the district should be visually compatible.

   d. **Rhythm of Solids to Voids – Front Facades.** The relationship of solids to voids in the front facade of a building or structure should be visually compatible with the front facades of historic buildings or structures within the district.

   e. **Rhythm of Buildings on Streets.** The relationship of building(s) to open space between it or them and adjoining building(s) should be visually compatible with the relationship between historic sites, buildings or structures within a historic district.

f. **Rhythm of Entrance And/Or Porch Projections.** The relationship of entrances and porch projections to the sidewalks of a building should be visually compatible with the prevalent architectural styles of entrances and porch projections on historic sites, buildings and structures within a historic district.

g. **Relationship of Materials, Texture and Color.** The relationship of materials, texture and color of the facade of a building should be visually compatible with the predominant materials used in the historic sites, buildings and structures within a historic district.

h. **Roof Shapes.** The roof shape of a building or structure should be visually compatible with the roof shape(s) of a historic site, building or structure within a historic district.

i. **Walls of Continuity.** Appearances of a building or structure such as walls, wrought iron, fences, evergreen landscape masses, or building facades, should form cohesive walls of enclosure along a street to insure visual compatibility of the building to historic buildings, structures or sites to which it is visually related.

j. **Scale of a Building.** The size of a building, the building mass in relation to open spaces, windows, door openings, balconies and porches should be visually compatible with the building size and building mass of historic sites, buildings and structures within a historic district.

k. **Directional Expression of Front Elevation.** A building should be visually compatible with the buildings, structures and sites in its directional character: vertical, horizontal or non-directional.

G. **Waiver of Unified Land Development Code Provisions.**

1. The HRRB may recommend to that the Board of County Commissioners approve waiver of Code requirements for designated historic resources or contributing properties to a designated historic district. The waiver may occur concurrently with the designation process or may be requested regarding any property subject to the historic site or district designation. Waivers may include setbacks, lot width, depth, area requirements, height limitations, open space requirements, vehicular requirements, design compatibility requirements, and other similar development regulations other than changes in permitted uses, density increases, or waiver of environmental or health standards. Before granting a waiver of code requirements, the Board of County Commissioners must find:

   a. That the waiver will be in harmony with the general appearance and character of the community.

   b. That the waiver will not be injurious to the area involved or otherwise detrimental to the public health, safety or welfare.

   c. That the project is designed and arranged on the site in a manner that minimizes aural and visual impact on the adjacent properties while affording the owner(s) a reasonable use of their land.

   d. The waiver is the minimum necessary to allow reasonable use of the property while preserving the historic attributes of the property.

2. In approving a waiver, the Board of County Commissioners may prescribe any appropriate conditions necessary to protect and further the interests of the area and abutting properties, including but not limited to:

a. Landscape materials, walls and fences as required buffering.

b. Modifications of the orientation of any openings.

c. Modifications for site arrangements.

3. The waiver shall be incorporated into the resolution designating the historic site or district with conditions and standards applicable to the property or district. If the waiver process occurs separately from the designation process, the notification and public hearings procedures required for historic designation shall be followed and a resolution approving the waiver shall be recorded in the public records of Palm Beach County, Florida.

H. **Palm Beach County Register of Historic Places.**

1. If the County Commission approves the nomination of a property for designation as a historic site or group of properties for designation as a historic district, said site or district shall be listed on the Palm Beach County Register of Historic Places and recorded in the official records of Palm Beach County. The Palm Beach County Register of Historic Places shall be administered by the Board.

2. The Board shall issue an official Certificate of Historic Significance to the owner of properties listed individually on the Palm Beach County Register of Historic Places or judged as contributing to the character of a historic district listed on the Palm Beach County Register of Historic Places. The County Administrator, or his/her appointee, is authorized to issue and place official signs denoting the geographic boundaries of each historic district listed on the Palm Beach County Register of Historic Places.

I. **Certificate of Appropriateness.**

1. **Activities Requiring Certificate of Appropriateness.**

a. No building, structure, appurtenance, improvement or landscape feature within Palm Beach County, which has been designated a historic site, pursuant to Part V of this ordinance, shall be erected, altered, restored, renovated, excavated, relocated, or demolished until a Certificate of Appropriateness regarding any exterior architectural features, landscape feature, or site improvements has been issued by the Board pursuant to the procedures of this ordinance.

b. A Certificate of Appropriateness shall be required for the erection, alteration, restoration, renovation, excavation, relocation, or demolition of any building, structure or appurtenance within any historic district established by Palm Beach County.

c. A Certificate of Appropriateness shall be required for any material change in existing walls, fences and sidewalks, change of color, or construction of new walls, fences and sidewalks.

d. Landscape features. Landscape features and site improvements shall include, subsurface alterations, site regrading, fill deposition, paving, landscaping walls, fences, courtyards, signs, and exterior lighting.

e. Plan approval required. No Certificate of Appropriateness shall be approved unless the architectural plans for said construction, reconstruction, relocation, alteration, excavation, restoration, renovation, or demolition has been approved by the Board.

2. Certificate not required.

a. A Certificate of Appropriateness shall not be required for general and occasional maintenance and repair of any historic building, structure or site, or any building or structure within a historic district, except where proscribed or regulated by archaeological considerations.

b. A Certificate of Appropriateness shall not be required for any interior alteration, construction, reconstruction, restoration or renovation. General and occasional maintenance and repair shall include lawn and landscaping care and minor repairs that restore or maintain the historic site or current character of the building or structure. General and occasional maintenance and repair shall also include any ordinary maintenance which does not require a building permit from the County. General and occasional maintenance and repair shall not include any of the activities described and defined subsections 1.a-e of this Section, above, nor shall it include exterior color change, addition or change of awnings, signs, or alterations to porches and steps or other alterations which require excavation or disturbance of subsurface resources.

3. Review Guidelines.

a. The Historic Resources Review Board shall utilize the most recent U.S. Secretary of the Interior's Standards for Rehabilitation as the standards by which applications for Certificate of Appropriateness are to be evaluated.

b. Applications for Certificates of Appropriateness must be made on forms approved and provided by the Board. Applications must be accompanied by appropriate site plans, scaled drawings, architectural drawings, photographs, sketches, descriptions, renderings, surveys, documents or any other pertinent information the Board may require to understand the applicant's planned alteration, construction, reconstruction, relocation, restoration, renovation, or demolition.

c. The application shall be submitted to the Planning, Zoning and Building Department for review by the HRRB with a non-refundable application fee that is established by the Board of County Commissioners from time to time to defray the actual costs of processing the application.

d. An applicant may request a pre-application conference with the HRRB or appropriate County staff members to obtain information and guidance regarding the application process. The HRRB may designate subcommittees of at least one member to hold these conferences with potential applicants. The purpose of the pre-application conference will be to discuss and clarify preservation objectives and HRRB regulations and guidelines and any other questions which may arise during the Certificate of Appropriateness process. If at least two (2) Board members are present, these conferences shall be public meetings subject to appropriate public meetings laws and notice requirements. However, in no case will any statement or representation made prior to official HRRB review of an application bind the HRRB, the Board of County Commissioners or any County departments regarding for the certification process.

e. If or when the application is determined sufficient, the Executive Director shall place the application on the agenda of the next available meeting of the HRRB. The HRRB shall receive an

application at least thirty (30) days prior to the public hearing. If no meeting of the HRRB is scheduled within sixty (60) days of the date an application is determined sufficient, a special meeting shall be scheduled by the chairperson.

f. If it is determined that the application is not sufficient, written notice shall be delivered to the applicant specifying the deficiencies. The Zoning Director shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within twenty (20) working days, the application shall be considered withdrawn.

g. The HRRB shall act upon the application within sixty (60) days of the determination of an application sufficiency. Nothing herein will prohibit a continuation of a hearing on an application which the applicant requests or to which the applicant consents.

h. The HRRB may advise the applicant and make recommendations in regard to the appropriateness of the application. The Board may delay final action until its next regularly scheduled meeting, or, if the Board so chooses and the applicant agrees, until a special meeting to be held within fourteen (14) calendar days of the meeting at which the application was first considered. In no case will the Board delay taking action by approving, denying, or deferring any application more than thirty (30) calendar days after such application is formally brought before the Board.

i. The HRRB may approve, modify or deny an application for a Certificate of Appropriateness. For purposes of granting a Certificate of Appropriateness, the Board shall have access to the designated site. If the Board approves the application, a Certificate of Appropriateness shall be issued. The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other development permits, orders and approvals required by Palm Beach County. A building permit or other development permit, order or approval shall be invalid if it is obtained without the Certificate of Appropriateness required for the work. Construction for which a Certificate of Appropriateness is issued shall commence within eighteen (18) months from the date of issuance, and said certificate shall expire if twenty-five per cent (25%) of the approved improvements have not been completed within twenty-four (24) months from the date of issuance. The Board may not approve extensions for Certificates of Appropriateness. If the HRRB denies the application, a Certificate of Appropriateness shall not be issued. The HRRB shall state its reasons for denial in writing and present these written reasons to the applicant within ten (10) calendar days of the HRRB's denial.

j. Within thirty (30) days of a written decision by the HRRB regarding an application for a certificate of appropriateness, an aggrieved party may appeal the decision by filing a written notice of appeal and pay a filing fee, established by the Board of County Commissioners, with the Clerk of the Board of County Commissioners. A copy of the notice of appeal shall be filed with the Executive Director of Planning, Zoning and Building Department. The notice of appeal shall state the decision which is being appealed, the grounds for the appeal, and a brief summary of the relief which is sought. Within forty-five (45) days of the filing of the appeal or the first Board of County Commissioners meeting which is scheduled, whichever is later in time, the Board of County Commissioners shall conduct a public hearing at which time they may affirm, modify or reverse the decision of the Department. The applicant shall be notified by certified mail, return receipt requested, of the date, time, and place of such hearing. At this hearing, the appealing party shall set forth the alleged inconsistencies or non-conformities with procedures or criteria set forth in this code; however, no new material or evidence shall be presented to or considered by the Board of County Commissioners. The Board of County Commissioners shall vote to approve, modify or overrule the decision of the HRRB. The decision of the Board of County Commissioners shall be in

writing and a copy of the decision shall be forwarded to the appealing party. An applicant may appeal a final decision of the Board of County Commissioners within thirty (30) days of the rendition of the decision by filing a petition for writ of certiorari in Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

4. Demolition of Designated Historic Sites and Within Historic Districts.

a. Public agencies having the authority to demolish unsafe structures shall receive notice of designation of individual sites, districts, pursuant to Part V of this ordinance. The HRRB shall be deemed an interested party and shall be entitled to receive notice of any public hearings conducted by said public agency regarding demolition of any designated property. The HRRB may make recommendations and suggestions to the public agency and the owner(s) relative to the feasibility of and the public interest in preserving the designated property.

b. A certificate of appropriateness for demolition shall not be required when a building, structure or appurtenance designated as a historic site, or a contributing building, structure or appurtenance within a designated historic district, has been condemned by the County. A demolition permit shall not be issued unless the HRRB has been notified of the proposed demolition and provided an opportunity to provide input as provided in Subsection 4.a above.

c. In the event the HRRB determines that a historic site is in the course of being demolished by neglect, it shall notify the owner of record of such preliminary finding stating the reason therefor and shall give the owner of record thirty (30) calendar days from the date of notice in which to commence work rectifying the evidences of neglect cited by the Board. Such notice shall be accomplished in the following manner:

i. By certified mailing to the last known address of the owner of record, or

ii. In the event the procedure outlined in (a) above is not successful, then by attaching such notice to the historic site twice within a week.

iii. Upon the owner of record's failing to commence work within thirty (30) calendar days of such notice, the HRRB shall notify the owner of record in the manner provided above to appear at the next public hearing of the HRRB. The HRRB shall cause to be presented at said public hearing the reasons for the notice, and the owner of record shall have the right to present any rebuttal thereto. If, thereafter, the HRRB shall determine that the historic site is being demolished by neglect, the Board shall forward a complaint to the Code Enforcement Division for action.

d. When an applicant seeks a Certificate of Appropriateness for the purpose of demolition of a non-condemned, contributing building, structure or appurtenance, the applicant must satisfactorily demonstrate to the Board the applicant's plans to improve the property.

e. The HRRB's refusal to grant a Certificate of Appropriateness for the purpose of demolition will be supported within fifteen (15) calendar days by a written statement describing the public interest that the Board seeks to preserve.

f. The HRRB may grant a Certificate of Appropriateness for demolition which may provide for a delayed effective date of up to six (6) months from the date of the Board's action. The effective date of the certificate will be determined by the HRRB based on the relative significance of the structure and the probable time required to arrange a possible alternative to demolition. The HRRB

may delay the demolition of designated historic sites and contributing buildings within historic districts for up to six (6) months, while demolition of non-contributing buildings within historic districts may be delayed for up to three (3) months.

g. During the demolition delay period, the HRRB may take such steps as it deems necessary to preserve the structure concerned. Such steps may include, but not be limited to, consultation with community groups, public agencies, and interested citizens, recommendations for acquisition of property by public or private bodies or agencies, and exploration of the possibility of moving one or more structures or other features.

h. In connection with any Certificate of Appropriateness for demolition of buildings, structures or appurtenances as defined in this ordinance, the HRRB may request the owner, whether public or private, at the owner's expense, to salvage and preserve specified classes of building materials, architectural details and ornaments, fixtures, and the like for reuse in the restoration of other historic properties. The HRRB may require, at the owner's expense, recording of the historic resource's details for archival purposes prior to demolition by an interested, qualified, non-profit group(s) selected by the HRRB. The recording may include, but will not be limited to, photographs, documents, and scaled architectural drawings. The HRRB may also require the owner, at the owner's expense, to excavate, record, and conserve archaeological resources threatened by the alterations so permitted. With the owner's consent, an interested, qualified, non-profit group selected by the HRRB may salvage and preserve building materials, architectural details and ornaments, textures and the like at their expense respectively.

i. The HRRB shall consider, at a minimum, the guidelines listed below in evaluating applications for a Certificate of Appropriateness for demolition of designated historic sites or buildings, structures or appurtenances within designated historic districts:

1) Is the structure of such interest or quality that it would reasonably fulfill criteria for designation for listing on the National Register?
2) Is the structure of such design, texture, material, detail, size, scale, or uniqueness of location that it could be reproduced only with great difficulty and/or economically unreasonable expense?
3) Is the structure one of the few remaining examples of its kind in the neighborhood, County or designated historic district?
4) Would retaining the structure promote the general welfare of Palm Beach County by providing an opportunity to study local history, architecture and design, or by developing an understanding of the importance and value of a particular culture and heritage?
5) Are there definite plans for immediate reuse of the property if the proposed demolition is carried out, and what effect will those plans have on the architectural, historic, archaeological, or environmental character of the surrounding area and district?
6) Does the building or structure contribute significantly to the historic character of a designated historic district and to the overall ensemble of buildings within the designated historic district?
7) Have reasonable measures been taken to save the building from further deterioration, collapse, arson, vandalism or neglect?
8) Has demolition of the designated building or structure been ordered by the appropriate public agency due to unsafe conditions?

j. Notice of application for demolition shall be posted on the premises of the building, structure or appurtenance proposed for demolition in a location and manner clearly visible from the street by the

applicant using sign provided by the Planning, Zoning and Building Department. Such notice shall be posted within three (3) working days of receipt of the application for demolition by the HRRB.

k. Notice of demolition shall also be published in a newspaper of general circulation at least three times prior to demolition, the final notice of which shall not be less than fifteen (15) calendar days prior to the date of the issuance of the demolition permit. The first notice shall be published not more than fifteen (15) calendar days after the application for a Certificate of Appropriateness for demolition is filed with the HRRB.

5. Criteria for Relocation of Historic Resources.

The HRRB shall consider the following criteria for applications for Certificates of Appropriateness for the relocation of all historic resources and contributing properties or historic resources and contributing properties located within a designated historic district:

a. The historic character of the building or structure contributes to its present setting.

b. The reasons for the proposed move.

c. The proposed new setting and the general environment of the proposed new setting.

d. Whether the building or structure can be moved without significant damage to its physical integrity, or change in or loss of significant characteristics. Elements removed in order to move the building or structure shall be replaced following relocation.

e. Whether the proposed relocation site is compatible with the historical and architectural character of the building or structure.

f. When applicable, the effect of the move on the distinctive historical and visual character of a designated historic district.

g. The effect of relocation on subsurface resources.

6. Amendments to Designations.

Applications for amendments to existing designated historic sites or designated historic districts shall be processed according to the provisions and procedures of Part VI of this ordinance. Where the HRRB has issued a Certificate of Appropriateness for demolition or relocation, the historic designation classification shall only be changed through the amendment process as described herein.

7. Undue Economic Hardship.

No decision of the Board shall result in undue economic hardship for the property owner. The Board shall have the authority to determine the existence of such hardship in accordance with the criteria for undue economic hardship st forth in this ordinance. In any instance where there is a claim of undue economic hardship as defined in the Ordinance, the property owner may submit, by affidavit, to the HRRB, at least fifteen (15) calendar days prior to the public hearing, the following information:

a. For all property:

1) The amount paid for the property, the date of purchase, or other means of acquisition, such as gift or inheritance, and the party from whom purchased,
2) The assessed value of the land and improvements thereon, according to the two (2) most recent assessed valuations,
3) Real estate taxes for the previous two (2) years,
4) Annual debt service, or mortgage payments, if any, for the previous two (2) years,
5) All appraisals, if any, obtained within the previous two (2) years by the owner(s) or applicant(s) in connection with the purchase, financing or ownership of the property, and
6) Any information that the property is not marketable or able to be sold, considered in relation to any listing of the property for sale or rent, price asked, and offers received, if any, within the previous two (2) years, including testimony and relevant documents regarding:
   a) Any real estate broker or firm engaged to sell or lease the property.
   b) Reasonableness for the price or rent sought by the applicant.
   c) Any advertisements placed for the sale or rent of the property.
7) Any information regarding the infeasibility of adaptive or alternative uses for the property that can earn a reasonable economic return for the property as considered in relation to the following:
   a) A report from a registered professional engineer in the State of Florida or an architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation,
   b) An estimate of the cost of construction, alteration, demolition, or removal, and an estimate of any additional cost that would be incurred to comply with the recommendation and decision of the Board concerning the appropriateness of the proposed alterations,
   c) The estimated market value of the property in the current condition, after completion of the demolition, after completion of the proposed construction, and after renovation of the existing property for continued use,
   d) In the case of a proposed demolition, the testimony of an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or use of the existing structure on the property,
   e) Financial documentation of the ability to complete the replacement project which may include but is not limited to a performance bond, a letter of credit, or letter of commitment from a financial institution, and
   f) The current fair market value of the property, as determined by at least two (2) independent certified appraisals.
8) Any State or Federal income tax returns relating to the property for the past two (2) years.
9) Any other information the applicant feels is relevant to show extreme economic hardship.

b. For income property (actual or potential):

1) Annual gross income from the property for the previous two (2) years, if any,
2) Depreciation, deduction and annual cash flow, if any, for the previous two (2) years before and after debt service,
3) Status of leases, rentals or sales for the previous two (2) years,
4) Itemized operating and maintenance expenses for the previous two (2) years, including proof that adequate and competent management procedures were followed, and
5) Any other information, including the income tax bracket of the owner, applicant, or principal investors in the property, considered necessary by the Board to a determination as to whether the property does yield or may yield a reasonable return to the owners.

c. The applicant shall submit all necessary materials to the HRRB staff by the closing date for the next scheduled Board hearing in order that staff may review the documentation. The staff comments shall be forwarded to the Board for review and made available to the applicant for consideration prior to the hearing.

d. In the event that any of the required information is not reasonably available to the property owner and cannot be obtained by the property owner, the property owner shall file with his/her affidavit, a statement of the information which cannot be obtained and the reasons why such information cannot be reasonably obtained. Where such unobtainable information concerns required financial information, the property owner will submit a statement describing estimates which will be as accurate as are feasible.

e. The HRRB may require that an applicant furnish such additional information as the HRRB believes is relevant to the HRRB's determination of any alleged undue economic hardship. The HRRB may also require, in appropriate circumstances, that information be furnished under oath.

8. Enforcement, Penalties.

a. Enforcement of Maintenance and Repair Provisions.

Where the HRRB determines that any improvements within the exterior of a designated historic site, or within a designated historic district, are endangered by lack of ordinary maintenance and repair, or of deterioration, or that other improvements in visual proximity to a designated site or designated historic district are endangered by lack of ordinary maintenance and repair, or of deterioration, to such an extent that it detracts from the desirable character of the designated historic site or designated historic district, the Board shall request appropriate officials or agencies of the County government to require correction of such deficiencies under the authority and procedures of applicable ordinances, laws, and regulations.

b. General Enforcement Procedures.

Violators of this ordinance shall be subject to a hearing before the Palm Beach County Code Enforcement Board. The Code Enforcement Board may require any person deemed to be in violation of this ordinance to repair or cause to be repaired, or otherwise restore, the subject improvement, building, site structure, appurtenance, landscape or design feature to its appearance as it existed prior to the action taken by the violator which caused the violation. Further, if the Code Enforcement Board finds that a willful violation of this ordinance has occurred, the County shall fine the violator a fine of up to five hundred dollars ($500.00) per day or impose imprisonment in the county jail not to exceed sixty (60) days or by both fine and imprisonment as provided in Sec. 125.69, Fla. Stat. In addition to the sanctions contained above, the County may take any other appropriate legal action, including, but not limited to, requests for temporary and/or permanent injunctions to enforce the provisions of this ordinance.
[Ord. No. 93-4]
[Ord. No. 93-4; February 2, 1993] [Ord. No. 95-8; March 21, 1995]

ARTICLE 8.

SUBDIVISION, PLATTING, AND REQUIRED IMPROVEMENTS

TABLE OF CONTENTS

ARTICLE 8.
SUBDIVISION, PLATTING, AND REQUIRED IMPROVEMENTS

		Page
SEC. 8.1	GENERAL PROVISIONS	1
A.	Authority	1
B.	Applicability	1
C.	Purpose and intent	1
SEC. 8.2	INTERPRETATION	2
A.	Minimum requirements	2
B.	Relationship to other agency requirements	2
C.	Conflicting requirements	2
SEC. 8.3	GENERAL REQUIREMENTS	2
A.	Platting requirement	2
B.	Required improvements installation requirement	3
C.	Standards and responsibility for required improvements	3
D.	Conformity with land use, density, and concurrency regulations	3
E.	Site suitability	3
SEC. 8.4	APPLICATION OF ORDINANCE	3
A.	General application	3
B.	Building permits and other approvals	4
SEC. 8.5	PREVIOUSLY APPROVED OR PLATTED SUBDIVISIONS	4
A.	Active subdivision development	4
1.	Subdivision developments which are committed developments or deemed vested	4
2.	Modifications to an active subdivision plan or preliminary plat	4
3.	Abandonment of active subdivision plan or preliminary plat	4
4.	Authority of the Development Review Committee	4
5.	Fees waived for applications by the County Engineer	4
B.	Non-conforming subdivisions	5
1.	Authority of the Board to vacate non-conforming plats	5
C.	Authority of owners to develop non-conforming subdivisions which are subject to vacation by the Board	5
D.	Public hearing required	5
E.	Legal access to be maintained	5
F.	Improvement of existing partially developed non-conforming subdivisions not subject to vacation and reversion to acreage by motion of the Board	6
1.	Streets	6
2.	Positive drainage	6

SEC. 8.6 PLANNED DEVELOPMENTS 6
A. General 6
B. Subdivision of commercial and industrial building sites 6

SEC. 8.7 ALTERNATE DESIGNS FOR RURAL SUBDIVISIONS 7
A. Applicability 7
B. Application requirements 7
C. Exceptions to requirements 7
1. Access and circulation systems 7
2. Wastewater system 7
3. Potable water system 7
4. Utilities installation 7

SEC. 8.8 PHASED DEVELOPMENTS 8
A. Phasing plan 8
B. Improvements 8
C. Certificate of Concurrency Reservation approval 8
D. Phasing controls 8
E. Time limitation 8
F. Sequence of phases 8

SEC. 8.9 EXCEPTIONS TO GENERAL REQUIREMENTS 9
A. Authority 9
B. Plat waiver with certified survey 9
1. Application for plat waiver 9
2. Decision by County Engineer 10
3. Effect of approval 11
C. Exceptions to installation of improvements requirement 11
1. Application for required improvement installation waiver 11
2. Effect of approval 11
D. Contents of applications 11

SEC. 8.10 ADMINISTRATION OF ARTICLE 11
A. Powers and duties of the County Engineer 11
B. Exceptions to General Requirements 12

SEC. 8.11 PRELIMINARY SUBDIVISION PLAN 12
A. Purpose of preliminary subdivision plan 12
B. Professional services required 13
C. Contents of application 13

SEC. 8.12 FINAL SUBDIVISION PLAN 13
A. Purpose 13
B. Applicability 13
C. Procedure 13
1. Application 13
2. Threshold Review requirement 13

3. Contents of application . . . 13
4. Resubmittals . . . 14
D. Development Review Committee action . . . 14
E. Duration of Final Subdivision Plan approval . . . 14

SEC. 8.13 TECHNICAL COMPLIANCE . . . 14
A. Purpose . . . 14
B. Application . . . 14
1. Preliminary plat . . . 14
2. Certified survey . . . 14
3. Construction plans and supplemental engineering reports . . . 14
4. Certified opinion of cost . . . 15
C. Review of the Technical Compliance submittal . . . 15
1. Agency comments . . . 15
2. Submittal fails to meet requirements . . . 16
3. Submittal meets requirements . . . 16
D. Technical Compliance approval . . . 16
E. Expiration of Technical Compliance . . . 16
F. Effect of changes to Final Subdivision Plan . . . 16

SEC. 8.14 LAND DEVELOPMENT PERMIT . . . 17
A. Land Development Permit Application submittal. . . . 17
1. Final plat . . . 17
2. Certified survey . . . 17
3. Maintenance and use documents and other documents . . . 17
4. Construction plans and supplemental engineering information . . . 17
5. Developer's Acknowledgement of Responsibility for Construction of Required Improvements . . . 17
6. Guaranties . . . 18
B. Action by the County Engineer . . . 18
1. Submittal fails to meet ordinance . . . 18
2. Submittal meets ordinance . . . 18

SEC. 8.15 SUBSTITUTION OF DEVELOPERS . . . 19
A. Voluntary substitution of developers . . . 19
B. Involuntary substitution of developers . . . 19

SEC. 8.16 CONSTRUCTION PLANS AND SUPPLEMENTAL ENGINEERING INFORMATION . . . 19
A. Duties of developer's engineer . . . 19
B. Submittal requirements . . . 19
1. Submittals for required improvements . . . 19
2. Submittals for other improvements . . . 20
C. Completeness of construction plans . . . 20
D. Format and content of construction plans for required improvements . . . 20
E. Final stormwater management plan . . . 21
F. Soils report . . . 21

SEC. 8.17 CONSTRUCTION OF REQUIRED IMPROVEMENTS 22
A. Developer's duty 22
B. Time of completion of required improvements 22
C. Completion prior to recordation 22
D. Completion after recordation 22
1. Frequency of reductions in amount of guaranty 22
2. Amount of reductions in guaranties 23
3. Release of guaranty 23
E. County use of funds; failure of developer to complete 23
F. Administration of construction 23
1. Construction standards 23
2. Inspections, reports, and stop work orders 23
3. Measurements and tests 24
4. Engineer's certificate of completion 24
G. Acknowledgment of completion and maintenance of required improvements 24
1. Developer's Warranty on workmanship and material 24
2. Acknowledgment of completion by County Engineer; release of guaranty . . 24
3. Acceptance of dedications and maintenance of improvements 25
4. County completion of required improvements in recorded subdivisions 25
5. Developer's failure to complete improvements in unrecorded subdivisions . . 25

SEC. 8.18 SUPPLEMENTAL PROCEDURES 26
A. Construction and landscaping in lake maintenance easements and water management tracts 26
1. Purpose 26
2. Prohibition 26
3. Application requirements for bulkheads, docks, or piers 26
4. Application requirements for structures or plantings in lake maintenance easements 26
5. Structures or plantings 26
6. Repair, replacement, or modification 27
B. Dredge, fill and construction in waters of the State 27
1. Applicability 27
2. Easements or rights-of-way 27
3. Permits 27
C. Alternate design, construction standards, and types of materials 27
1. Applicability 27
2. Contents of application 27
3. Environmental considerations 28

SEC. 8.19 REQUIREMENTS FOR CERTIFIED SURVEY 28
A. General 28
B. Alternatives 28
C. Recordation 28

SEC. 8.20 REQUIREMENTS FOR THE PRELIMINARY AND FINAL PLAT 28
A. Preliminary plat 28
B. Final plat 28
1. Material 28
2. Preparation 28
3. Name of subdivision 28
4. Title 28
5. Description 29
6. Index 29
7. Survey data 29
8. Lot and block identification 31
9. Street names 31
10. Not included parcels 31
11. Streets and easements 31
12. Maintenance and use documents 31
13. Streets 31
14. Restriction on obstruction of easements 32
15. Certification and approvals 32
C. Special requirements for mobile home, recreational vehicle, and manufactured housing subdivisions 34

SEC. 8.21 REQUIRED IMPROVEMENTS 34
A. Minimum required improvements for all subdivisions 34
1. Access and circulation systems 34
2. Land preparation 34
3. Stormwater management system 34
4. Wastewater system 34
5. Potable water system 35
6. Utilities 35
7. Fire-rescue services 35
8. Subdivision design and survey requirements 35
B. General design requirements 35
C. Parks and recreation 35

SEC. 8.22 ACCESS AND CIRCULATION SYSTEMS 35
A. Vehicular circulation systems 35
1. Required improvement to be constructed by developer 35
2. Minimum legal access requirement 36
3. General design considerations 36
4. Double frontage lots 36
5. Construction in muck or clay areas 37
6. Street intersections and street jogs 37
7. Through and local traffic 37
8. Railroads in or abutting subdivisions 37
9. Alleys 37
10. Bridges and culverts 37
11. Street markers 38

12. Traffic control devices . . . 38
13. Pavement widths . . . 38
14. Dead-end streets . . . 38
15. Materials and construction . . . 38
16. Shoulders . . . 38
17. Street grades . . . 38
18. Non-conforming streets . . . 38
19. Limited access easements . . . 39
20. Street names . . . 39
21. Alignment, tangent, deflection, radii . . . 39
22. Street lighting . . . 39
23. Median strips . . . 39
24. Subdivision entranceways . . . 39
25. Guardhouses . . . 39

B. Pedestrian circulation system . . . 42
1. Requirement for sidewalks . . . 42
2. Master pedestrian circulation plan; waiver of requirement . . . 42
3. Maintenance responsibility of sidewalks and paths . . . 42

C. Reduction of street width . . . 42

D. Crosswalks . . . 43

SEC. 8.23 CLEARING, EARTHWORK, AND GRADING . . . 43
A. Minimum required improvement . . . 43
B. Unsuitable materials . . . 43

SEC. 8.24 STORMWATER MANAGEMENT . . . 43
A. Minimum required improvement . . . 43
B. General criteria . . . 44
C. Hydrologic design data . . . 44
D. Design flood elevation determination . . . 45
E. Tertiary stormwater system design and performance . . . 45
1. Lot and building site drainage . . . 45
2. Minor street drainage . . . 46
3. Non-Plan collector street drainage . . . 47
4. Parking tract and parking area drainage . . . 47
5. Storm sewerage . . . 47

F. Secondary stormwater system design and performance . . . 48
G. Drainage and maintenance access rights . . . 50
H. Certificate of compliance for lots . . . 51

SEC. 8.25 WASTEWATER SYSTEMS . . . 51
A. General requirement . . . 51
B. Package treatment plant (on-site) . . . 51
C. Individual system . . . 51

SEC. 8.26 POTABLE WATER SYSTEMS 52
A. General requirement 52
B. Package treatment plant (on-site) 52
C. Individual system 52

SEC. 8.27 UTILITIES 52
A. Required improvement 52
B. Easements 52
C. Exceptions to underground installation 53
1. Applicability 53
2. Standard exception for appurtenant, on the ground facilities 53
3. Exceptions requiring approval of County Engineer 53
4. Convertability 53
D. Installation in streets 53

SEC. 8.28 FIRE-RESCUE SERVICES 53
A. Required improvement 53
B. Single family developments of less than five (5) units per acre 54
C. Multiple family developments of over five (5) dwelling units per acre, commercial, institutional, industrial or other high daytime or nighttime population density developments 54
D. Charges for use 54

SEC. 8.29 SUBDIVISION DESIGN AND SURVEY REQUIREMENTS 54
A. Required improvement 54
B. Buffering 54
C. Blocks 54
1. General considerations 54
2. Maximum length 55
D. Lots 55
1. Existing structures 55
2. Lots abutting major streets 55
3. Through lots 55
E. Minimum safe sight distance at intersections 55
F. Survey requirements 55
1. Permanent Reference Monuments ("P.R.M.s") 55
2. Permanent Control Points ("P.C.P.s") 55

SEC. 8.30 VARIANCES 56

SEC. 8.31 STANDARD FORMS 56
A. General 56
B. Dedications and reservations 56

ARTICLE 8.
SUBDIVISION, PLATTING, AND REQUIRED IMPROVEMENTS

SEC. 8.1 GENERAL PROVISIONS.

A. **Authority.**

1. Sec. 125.01, Fla. Stat., vested counties with the power to establish, coordinate and enforce business regulations, building, housing, and related technical codes and regulations as are necessary for the protection of the public and to perform other acts not inconsistent with laws which are in the common interest of the people of the county and to exercise all powers and privileges not specifically prohibited by law.

2. Secs. 125.01, 336.02 and 336.08, Fla. Stat., provide that counties have the power and authority to establish new roads and locate and change the same; and

3. Chapter 163 and Special Acts, Chapter 69-1425, Laws of Florida, authorize the Board of County Commissioners to adopt, prescribe and promulgate rules and regulations governing the filing of plats and development of subdivisions, in order to aid in the coordination of land development.

4. It is in the public interest to ensure that adequate and necessary physical improvements are properly installed whenever land is developed.

5. It is in the public interest to establish procedures and minimum standards for the subdivision, development and improvement of land within unincorporated Palm Beach County, Florida.

B. **Applicability.** The regulations set forth in this article shall be applicable to all subdivision of land in unincorporated Palm Beach County, Florida, or as hereafter established.

C. **Purpose and intent.** The specific provisions of this article shall be applied and interpreted in a manner consistent with the County's purpose and intent to:

1. Establish procedures and standards for the subdivision of real estate;

2. Ensure proper legal description, identification, monumentation and recording of subdivisions;

3. Aid in the coordination of land development in accordance with orderly physical patterns;

4. Implement the Comprehensive Plan with respect to installation of on-site improvements for new development, which improvements are necessary to meet or maintain the levels of service required under the Concurrency Management System of the Comprehensive Plan;

5. Ensure provision of safe, convenient legal and physical access to and circulation among lots for vehicular and pedestrian traffic;

6. Ensure provision of adequate utilities to support development of each lot;

7. Regulate the subdivision and associated development of lands subject to seasonal and periodic flooding and provide for adequate stormwater management to minimize adverse impacts of development on water resources while ensuring acceptable levels of protection from inundation for residents and improvements;

8. Ensure provision of public and private parks and recreation areas to accommodate the additional population of new subdivisions in accordance with the objectives of the Recreation Open Space Element of the Comprehensive Plan;

9. Ensure that the citizens and taxpayers of Palm Beach County will not have to bear the costs resulting from haphazard subdivision of land or failure by the developer to provide adequate and necessary physical improvements of lasting quality; and

10. Assure the purchaser of land in a subdivision that necessary infrastructure improvements have been provided in accordance with County standards for design and construction, and that associated rights and obligations have been established for the use and maintenance of said improvements.

SEC. 8.2 INTERPRETATION.

A. **Minimum requirements.** In their interpretation and application, the requirements of this article shall be deemed to be the minimum requirements necessary for the promotion of public health, safety and general welfare.

B. **Relationship to other agency requirements.** The requirements of this article are intended to complement and expand upon rules, regulations, and permit requirements of other state, regional, and local agencies applicable to the design, construction, and/or operation of facilities for access and circulation of vehicles and pedestrians, construction of streets and related facilities, power and communication services, wastewater and water services, and stormwater management and flood protection in Palm Beach County. Compliance with the requirements of this article shall not relieve the developer, his successors or assigns from the necessity to comply with all requirements and obtain all permits required by the regulations of such other agencies.

C. **Conflicting requirements.** In the event of conflict between a specific requirement of this article and that of another agency's rule, compliance with this article shall be interpreted by the County Engineer to avoid the conflict where such avoidance is not inconsistent with the general purposes and intent of this article and is affirmatively demonstrated as necessary to meet the purposes and intent of the conflicting rule. However, if the difference between said requirements is solely a matter of degree, the more restrictive requirement shall prevail and no conflict will be considered to exist.

SEC. 8.3 GENERAL REQUIREMENTS.

A. **Platting requirement.** Any developer planning to subdivide land shall record a Final Plat in accordance with the requirements of this article unless such requirement is specifically waived by the County Engineer in accordance with the provisions of Sec. 8.9.B.

B. **Required improvements installation requirement.** The adequacy of necessary public or private facilities and services for traffic and pedestrian access and circulation, solid waste, wastewater disposal, potable water supply, stormwater management, fire-rescue, parks and recreation and similar facilities and services, and potential adverse impacts on adjacent land uses and facilities shall be considered in the review of all development proposals. No Final Plat or certified survey shall be recorded until all required improvements set forth in Sec. 8.21, except those specifically waived pursuant to Sec. 8.9.C, are either completed in accordance with the requirements of Sec. 8.17 or are guaranteed to be completed by the developer in accordance with the provisions of Sec. 8.14.A.

C. **Standards and responsibility for required improvements.** All required improvements shall be designed pursuant to the standards and specifications as prescribed in this article and the County Standards, or as otherwise required by the County Engineer, in accordance with acceptable standards of engineering principles. All such improvements shall be installed by and at the expense of the developer in conformance with approved construction plans as referenced by the applicable Land Development Permit.

D. **Conformity with land use, density, and concurrency regulations.** Prior to consideration of any subdivision for approval under the terms of this article, the land proposed to be subdivided shall:

1. Be of sufficient land area to comply with the density and consistency requirements and provisions of the Administration and Land Use Elements of the Comprehensive Plan;

2. Be in the proper zoning district and have the necessary zoning approvals required for the intended use; and

3. Have received a Certificate of Concurrency Reservation, Conditional Concurrency Reservation, non-expired Concurrency Exemption or Concurrency Exemption Extension, pursuant to Art. 11.

E. **Site suitability.** Subdivision of land unsuitable for the proposed type or extent of development shall not be approved unless adequate methods of correction or mitigation are formulated and approved in accordance with the provisions of this article. The County Engineer may determine that land is unsuitable for subdivision due to unstable or poorly drained soils, frequent inundation, existence of environmentally sensitive or protected areas, inadequate legal or physical access to the proposed subdivision, or conditions or features deemed to be harmful to the health, safety and general welfare of future residents or the public.

SEC. 8.4 APPLICATION OF ORDINANCE.

A. **General application.** No person shall create a subdivision or develop any lot within a subdivision in unincorporated Palm Beach County except in conformity with this article. No Final Plat or certified survey of any subdivision shall be recorded unless such subdivision meets all applicable provisions of this article, the provisions of other applicable County ordinances, and the applicable laws of the State of Florida. Provided, however, that the subdivision of contiguous lands under single ownership where none of the resulting lots are less than forty (40) acres shall not be subject to compliance with the provisions of this article, unless such compliance is required as a specific condition of a development order for a conditional use or special use approved pursuant to Article 5.

B. **Building permits and other approvals.**

1. Except as provided in Sec. 8.4.B.2, no building permit shall be issued for any structure on any lot created by subdivision of land in violation of this article unless and until such lot is shown on a plat of record or certified survey, as applicable, recorded in the manner prescribed in this article.

2. Temporary structures and permanent structures having a temporary use may receive a building permit prior to recordation of the Final Plat for the property only when the use and location have been approved by the Development Review Committee and shown on the approved Final Subdivision Plan.

SEC. 8.5 PREVIOUSLY APPROVED OR PLATTED SUBDIVISIONS.

A. **Active subdivision development.** All active subdivision developments and all modifications to previously platted subdivisions shall be subject to the requirements of this article in accordance with the provisions of Sec. 1.5.

1. **Subdivision developments which are committed developments or deemed vested.** Any development which constitutes a committed development under the Comprehensive Plan and the concurrency exemption ordinance, Ordinance No. 89-35, or which has otherwise been deemed vested under Florida law, is hereby deemed an active subdivision plan or preliminary plat, as applicable.

2. **Modifications to an active subdivision plan or preliminary plat.** Modifications to an active subdivision plan or preliminary plat shall subject the development to the requirements of this article when:

   a. The modification of an active subdivision plan for a planned development cannot be approved by the Development Review Committee in accordance with the authority granted to it under Sec. 5.6; or

   b. The modification of an active subdivision plan or preliminary plat constitutes more than a minor deviation such that, in the opinion of the County Engineer, the construction plans for the required improvements require a new submittal and review.

3. **Abandonment of active subdivision plan or preliminary plat.** When the developer fails to seek subsequent approvals and permits within the time frames required by this article, such failure shall be evidence that the active subdivision plan or preliminary plat has been abandoned and all approvals granted for the subdivision plan, construction plans, or preliminary plat, as applicable, shall be deemed void.

4. **Authority of the Development Review Committee.** The Development Review Committee shall have the authority to review any previously approved subdivision development which does not meet the strict requirements of this article and to declare the master plan, final land use plan, preliminary or final plat (and accompanying construction plans), special exception subdivision approval, or site plan, as applicable, to be an active approval when the Committee finds that such declaration would be in accordance with the purpose and intent of this article and in the best interest of the general public. Such review shall be made upon application by either the developer or the County Engineer, which application shall be on a form prescribed by the Committee.

5. **Fees waived for applications by the County Engineer.** Any fee required for an application made pursuant to this section is hereby waived for all applications made by the County Engineer.

B. **Non-conforming subdivisions.** The official records of Palm Beach County contain plats recorded prior to February 5, 1973. Such plats show areas within Palm Beach County which have been platted as subdivisions, but which have either been partially improved or developed or remain unimproved or undeveloped. These areas, if developed or improved further as platted, would not conform to the policies and objectives of the Comprehensive Plan for such areas.

1. **Authority of the Board to vacate non-conforming plats.** The Board of County Commissioners shall have the power, on its own motion, to order the vacation and reversion to acreage of all or any part of a subdivision within unincorporated Palm Beach County, including the vacation and abandonment of streets or other parcels of land dedicated for public purposes and the vacating of streets and other parcels of land reserved for the use of the owners, including lands maintained by a property owners association, when:

   a. The subdivision plat was recorded as provided by law prior to February 5, 1973; and

   b. Within the subdivision plat or part thereof proposed to be reverted to acreage, not more than ten (10) percent of the total number of platted lots have been sold to individual owners by the original subdivider or his successor in title.

C. **Authority of owners to develop non-conforming subdivisions which are subject to vacation by the Board.** The owner or owners of a subdivision subject to vacation and reversion to acreage by motion of the Board of County Commissioners may either abandon the subdivision or portion thereof in accordance with the procedures of the Board, or may improve undeveloped or partially improved streets and drainage facilities at their cost and expense, provided such improvements shall comply with the provisions of this article.

D. **Public hearing required.** Prior to ordering such a vacation and reversion to acreage, the Board of County Commissioners shall hold a public hearing relative to the proposed vacation and reversion to acreage, with prior notice thereof being given by publishing in a newspaper of local circulation the date of and the subject matter of the hearing at least twice within the two (2) week period preceding the date of such public hearing. At such public hearing, the vacation and reversion to acreage of subdivided land must be shown to either conform to the Comprehensive Plan or reduce the nonconformity with the Comprehensive Plan.

E. **Legal access to be maintained.** No owner of any parcel of land in a subdivision vacated and returned to acreage or abandoned by the owners shall be deprived by the reversion to acreage or abandonment of any part of the subdivision of reasonable access to such parcel nor to reasonable access therefrom to existing facilities to which such parcel has theretofore had access. Such access remaining or provided after such vacation and reversion or abandonment may not necessarily be the same as theretofore existing, but shall be reasonably equivalent thereto.

F. Improvement of existing partially developed non-conforming subdivisions not subject to vacation and reversion to acreage by motion of the Board. The improvement of non-conforming subdivisions not subject to vacation and reversion to acreage by motion of the Board of County Commissioners shall comply with the requirements of this article and the following:

1. **Streets.** The existing right-of-way for a local street shall be considered sufficient provided it is at least fifty (50) feet wide and the improvements conform to the fifty (50) foot typical section or sixty (60) feet wide and the improvements conform to the sixty (60) foot typical section for local street construction as contained in the County standards. If the existing right-of-way is less than fifty (50) feet wide, additional right-of-way shall be provided to make a total width of not less than fifty (50) feet.

2. **Positive drainage.** Positive drainage shall be established or its existence proven, meeting all requirements for connection to a point of legal positive outfall. Easements for proper drainage shall be provided where necessary at a width adequate to accommodate the drainage facilities, but in no case shall said easement width be less than twelve (12) feet. Where canals or ditches are permitted, the easement width shall be adequate to accommodate the full width of drainage facilities plus twenty (20) feet on one side to permit access by equipment for maintenance purposes.

SEC. 8.6 PLANNED DEVELOPMENTS.

A. General.

Any planned development which is to be subdivided shall comply with the requirements of this article after approval of a Final Subdivision Plan by the Development Review Committee pursuant to Sec. 5.6. For the purpose of this article, "Planned Development" shall mean any development within a Planned Development district as defined by this Code and regulated pursuant to Sec. 6.8.

B. Subdivision of commercial and industrial building sites.

A building site which constitutes all or a portion of a pod designated for commercial or industrial use on the preliminary development plan of a planned development, and for which the detailed development configuration and building permit issuance are subject to prior approval by the DRC of a final site plan, may be exempted by the County Engineer from the subdivision recordation requirement of Sec. 8.4.B.1, and may be subdivided by fee title conveyance of individual internal lots. Such exemption may be granted by the County Engineer provided that:

1. Legal access to each interior lot is provided by a common parking lot in full compliance with all requirements of Sec. 8.22.A.2.c;

2. The layout, location, and construction limits of structures within the building site are regulated by required separation distances between structures rather than by setbacks from interior lot lines;

3. Individual interior lots are not subject to requirements for minimum area or dimensions under the property development regulations of Sec. 6.8 applicable to the building site;

4. A statement of the developer's intent to subdivide the property pursuant to the platting exemption of this Sec. 8.6.B is included on the approved final site plan for the building site, in which case said site plan shall constitute the approved final subdivision plan for purposes of compliance with this Article;

5. All lands within the perimeter of the building site are subject to a common recorded unity of control or other such maintenance and use covenants for access, parking, stormwater management, and other required common areas or facilities, as approved by the County Attorney pursuant to Sec. 7.15; and

6. The building site is delineated on a single boundary plat of record depicting all existing drainage and utility easements of record and all required limited access easements, water management tracts, and common area tracts, and including appropriate dedications or reservations for same.

[Ord. No. 94-9] [Ord. No. 94-23]

SEC. 8.7 ALTERNATE DESIGNS FOR RURAL SUBDIVISIONS.

A. **Applicability.** This section provides for a means of establishing a rural subdivision, as defined by this Code, in harmony with the character of surrounding development while meeting the general purpose and intent of this article. Due to the rural nature of proposed development, standard requirements for certain required improvements may be deemed inappropriate and alternative standards for such improvements may be approved under this section.

B. **Application requirements.** Upon submission of the subdivision plan, and an application for a rural subdivision designation, the Development Review Committee may approve the application for election to comply with this section. A rural subdivision shall meet the platting requirement of this article.

C. **Exceptions to requirements.** All requirements of this article shall apply except that the following required improvement design options shall be allowed under this section.

1. **Access and circulation systems.** Local streets may be developed without a wearing surface but shall otherwise conform to the standards specified by this article. All other streets of higher classification, as defined in this article, shall be constructed to meet or exceed County standards. Streets constructed without a wearing surface shall be privately maintained and shall not be considered for dedication or acceptance as public streets until paved, reconstructed and tested, as necessary, to meet County Standards. Costs of maintenance and further development of the local streets in a rural subdivision shall be borne solely by the owners of the property within the subdivision. Sidewalks and bike paths shall not be required when local streets are constructed without a wearing surface. The developer and any subsequent owner/seller shall fully disclose to the purchaser the method of payment of costs of maintenance and improvements of local streets developed without a wearing surface. The developer shall adequately warrant, by recorded covenant, that the County will not be liable for cost of maintenance or further development of local streets constructed without a wearing surface. The method and form of said disclosures and covenants shall be subject to approval by the County Attorney, prior to recordation of a final plat for such subdivision.
2. **Wastewater system.** Rural subdivisions within the Rural Service Area may utilize an individual system in accordance with Sec. 8.25.
3. **Potable water system.** Rural subdivisions within the Rural Service Area may utilize an individual system in accordance with Sec. 8.26.
4. **Utilities installation.** Utilities may be installed above ground in rural subdivisions.

SEC. 8.8 PHASED DEVELOPMENTS.

A. **Phasing plan.** The property encompassed by a Final Subdivision Plan may be developed in two (2) or more increments pursuant to the terms of this section and applicable phasing provisions of Sec. 5.8.D. A Final Subdivision Plan showing the proposed phasing plan must be approved by the Development Review Committee prior to submission of the first plat. Construction plans and preliminary plats shall coincide with their respective phases as shown on the Final Subdivision Plan. Construction plans or a preliminary plat for a partial phase shall not be accepted.

B. **Improvements.** The improvements of each phase shall be capable of operating independently of any unconstructed phase with respect to drainage, access, utilities, and other required improvements, except as provided herein. A dependent phase may be platted only if the foundation phase plat has been recorded and required improvements have been completed or are under construction pursuant to a land development permit and are secured pursuant to a guaranty posted for completion of required improvements. A dependent phase shall not be acknowledged as completed until the improvements in the foundation phase are acknowledged as completed; provided, however, that such acknowledgement of completion may occur simultaneously and provided that the County Engineer may permit the posting of surety to guarantee the installation at a later time of those required improvements which are not deemed necessary to provide drainage, access, or utilities to such dependent phases.

C. **Certificate of Concurrency Reservation approval.** The phasing plan and all phased construction shall conform to any phasing plan approved under the Certificate of Concurrency Reservation.

D. **Phasing controls.** The phasing plan and all phased construction shall be completed in accordance with any phasing controls and time frames required by this Code which are applicable to the development.

E. **Time limitation.** When the Final Subdivision Plan is approved for development in phases requiring more than one (1) final plat, the duration of said approval shall be as specified by and subject to those provisions of Sec. 5.8 applicable to the development or phase thereof.

F. **Sequence of phases.** When the Final Subdivision Plan is to be constructed in phases, the following sequence must be adhered to:

1. All required recreation areas and facilities to serve the entire development shall be platted or otherwise provided pursuant to the procedures and phasing provisions of Sec. 17.1.

2. The gross density of an individual plat shall not exceed the maximum density permitted for the entire development unless the total of all previously recorded plats of record and the plat under review produces an average density less than or equal to the approved maximum density for the entire development.

3. Where all or any portion of a water management tract is required to serve a proposed phase of development, and has not been previously recorded and constructed, said water management tract and its associated lake maintenance easement(s) shall be included and constructed in their entirety as part of the plat and required improvements for that phase.
[Ord. No. 94-9] [Ord. No. 94-23]

SEC. 8.9 EXCEPTIONS TO GENERAL REQUIREMENTS.

A. **Authority.** The County Engineer is hereby empowered to make certain exceptions to the platting requirement of Sec. 8.3.A and required improvements installation requirement of Sec. 8.3.B in accordance with the standards and procedures set forth in this section.

B. **Plat waiver with certified survey.** If, after review of the preliminary subdivision plan, the County Engineer determines that the proposed subdivision meets one of the conditions specified in Sec. 8.9.B.1, the requirement to file a plat may be waived and a certified survey shall be recorded in lieu of a plat along with an affidavit documenting approval of said waiver and restrictive covenants applicable to the subdivision, as prescribed by this article.

1. **Application for plat waiver.** In order to determine whether platting may be waived, the developer shall submit a preliminary subdivision plan in accordance with the requirements of Sec. 8.11 together with a statement demonstrating that the subdivision meets at least one (1) of the following conditions.

   a. The division is for the purpose of constructing not more than one (1) townhouse cluster in compliance with applicable use regulations and standards pursuant to Sec. 6.4.

   b. The division is to create no more than three (3) contiguous lots and all of the following circumstances apply:

      (1) The land concerned is isolated or removed in its relationship to platted lands;
      (2) Dedications or reservations are not required for the installation or maintenance of the required improvements; and
      (3) The improvements and dedications existing on the land are substantially in accordance with the requirements of this article.

   c. The division is of a contiguous land area not exceeding eighty (80) acres into lots of at least ten (10) acres each and which area meets all of the following additional conditions:

      (1) The area to be subdivided has existing legal access via a street of local or higher classification, accepted for maintenance by a local governmental agency, a special district, or a legally incorporated property owners association;
      (2) Legal access to the proposed lots exists or will be established and dedicated to and be maintained by a property owners association or a special district; and
      (3) Legal positive outfall exists and the appurtenant drainage easements are dedicated to, maintained and accepted by either by a property owners' association or water control district.

d. The division consists of a change in lot lines for the purpose of combining lots or portions thereof, shown on a record plat, into no more than three (3) contiguous lots where each of the resulting lots meets the requirements of the Comprehensive Plan and this Code or reduces the degree of non-conformity to the requirements of the Comprehensive Plan and this Code, as applicable, and the establishment of streets or installation of improvements either would not be required pursuant to this article or would be required and their installation would be guaranteed by the developer pursuant to the provisions of this article. Provided, however, that any application hereunder for lands shown on a record plat recorded after February 3, 1973, shall be limited to those changes necessary to correct errors in the record plat or to make a lot line adjustment to accommodate an isolated instance of error in construction of a dwelling unit or other building. In such cases, the improvements shall be in compliance with the standards in effect at the time of recording the plat or with any approved variance to such standards.

e. The lot or lots were created as part of an antiquated subdivision and the County Engineer finds that the subdivision substantially complies with the intent, purposes and requirements of this article. In making such determination, the County Engineer shall consider the following factors and any other information he deems appropriate:

(1) The total area of land encompassed by the antiquated subdivision;
(2) The number of lots created within the antiquated subdivision;
(3) The prior and subsequent subdivision of the area encompassed by the antiquated subdivision and whether such subdivision was platted or otherwise surveyed and placed of record;
(4) The need for dedications or reservations to ensure installation and continued maintenance of the required improvements;
(5) The extent of deviation from the requirements of this article;
(6) The extent of ownership fragmentation, including the number of lots sold and the number of lots developed;
(7) The degree of compliance with other County land development regulations, including but not limited to the Comprehensive Plan and this Code;
(8) The number of lots to be created; and
(9) The extent of development in the surrounding area.

f. The combination or recombination of lots is required in order for the new lot or lots to meet the density requirements of the Comprehensive Plan.

2. **Decision by County Engineer.** In determining if platting may be waived, the County Engineer shall distribute each application to, and consider recommendations received from the following agencies regarding conformance with requirements of their respective regulations and program responsibilities:

a. The Directors of the Land Development and Traffic Divisions, and Survey Section of the Engineering Department;

b. The Directors of the Planning, Zoning, and Building Divisions;

c. The Director of Environmental Resources Management;

d. The County Health Director ;

e. The Director of Water Utilities;

f. The Chief of Fire-Rescue;

g. The Director of Parks and Recreation;

h. The County Attorney; and

i. The Director of Property and Real Estate Management.

3. **Effect of approval.** The approved certified survey shall constitute the approved Final Subdivision Plan for the subdivision when such subdivision is not encompassed by a Final Subdivision Plan approved pursuant to Sec. 5.6. The granting of a plat waiver in no manner reduces or waives the requirements of Secs. 8.13 through 8.17 governing construction plan approval, land development permit issuance, and installation of the required improvements. Failure by the applicant to submit all documents required for the recordation of the affidavit of waiver within six (6) months of approval by the County Engineer shall void said approval.

C. **Exceptions to installation of improvements requirement.** If, after review of the preliminary subdivision plan, the County Engineer determines that certain improvements already existing on the proposed subdivision site are adequate to meet the intent of the required improvements requirement of this article, the installation of those required improvements may be waived.

1. **Application for required improvement installation waiver.** The developer shall submit a Preliminary Subdivision Plan in accordance with the requirements of Sec. 8.11 together with a statement demonstrating that the applicable improvement(s) and associated dedications existing on the land and serving the proposed lot(s) are substantially in accordance with the requirements of this article.

2. **Effect of approval.** The granting of a required improvement(s) installation waiver in no manner reduces or waives the requirement of this article to file a plat and to comply with applicable provisions of Secs. 8.13 through 8.17 with regard to all required improvements not specifically waived.

D. **Contents of applications.** Applications made pursuant to this article shall be submitted in a form established by the County Engineer, prescribed in the Land Development Forms Manual, and made available to the public. Contents of said applications shall include the submittal requirements for preliminary subdivision plans contained in Sec. 8.11.

SEC. 8.10 ADMINISTRATION OF ARTICLE.

A. **Powers and duties of the County Engineer.** The County Engineer shall be deemed the administrative officer for the purpose of coordinating, enforcing and administering provisions of this article. The responsibilities of the County Engineer may be delegated in whole or in part. The County Engineer shall adopt policies and procedures for administering and enforcing the provisions of this article including, but not limited to the setting of fees pursuant to the policies of the Board and establishment of submittal requirements and criteria for review of final subdivision plans by the Development Review Committee.

B. **Exceptions to General Requirements.** The County Engineer shall review and act on applications for exceptions to this article pursuant to Sec. 8.9. Such authority shall include the power to:

1. Waive compliance with the procedures of Secs. 8.13 through 8.17 when the County Engineer finds that compliance with such procedures is unnecessary because:

   a. The proposed subdivision has been granted both a plat waiver and a waiver for all required improvements for the property; or

   b. The proposed subdivision has been granted both a plat waiver and a waiver for some of the required improvements and installation of the remaining improvements will be assured by one of the following methods:

      (1) contribution of cash; or
      (2) construction of the required improvements will occur at the time of building construction and the installation of such improvements can be monitored as part of the building permit process or other County permitting process. Such improvements include, but are not limited to, drainage improvements requiring lot grading only, and installation of well and/or septic tank; or
      (3) a combination of (1) and (2) above.

2. Review any and all restrictive covenants applicable to a subdivision under review for a plat waiver;

3. Require additional information or reviews deemed necessary for its consideration. Such information may include, but is not limited to, written and oral statements with respect to the nature, condition and maintenance responsibility of the streets, stormwater management facilities, or other required improvements, and reviews by other County and State agencies, and any information necessary to assure that the proposal would conform to the Comprehensive Plan or reduce the degree of non-conformity to the Comprehensive Plan; and

4. Upon determining the facts of each application, determine whether:

   a. The proposal would be in harmony and compatible with present and future development of the area as contemplated under the Comprehensive Plan, and

   b. The proposal makes adequate provisions for public requirements, including safe and convenient vehicular and pedestrian circulation, access, stormwater management, utilities, water supply and wastewater disposal.

SEC. 8.11 PRELIMINARY SUBDIVISION PLAN.

A. **Purpose of preliminary subdivision plan.** The purpose of the preliminary subdivision plan is to provide adequate and necessary descriptive information regarding proposed subdivision layout and improvements for review of applications made under Sec. 8.9 for plat waivers and for required improvement(s) installation waivers.

B. **Professional services required.** The developer shall retain the services of an engineer or surveyor to prepare the preliminary subdivision plan. The subdivision plan shall be coordinated with the major utility suppliers involved with providing services. Where septic tanks are proposed, a satisfactory subdivision analysis for septic tanks from the PBCPHU shall be required.

C. **Contents of application.** The developer shall submit a written statement and drawing in the form established by the County Engineer, prescribed in the Land Development Forms Manual, and made available to the public.

SEC. 8.12 FINAL SUBDIVISION PLAN.

A. **Purpose.** The purpose of the Final Subdivision Plan is to provide a multi-agency review at a level of detail adequate to identify and resolve basic errors, omissions, and conflicts in the proposed subdivision layout with respect to applicable agency concerns, code requirements, and surrounding land uses, prior to the preparation of the detailed preliminary plat(s) and associated construction plans for required improvements.

B. **Applicability.** Except as provided in Sec. 8.9.B, the developer of every proposed subdivision shall be required to obtain approval of a Final Subdivision Plan from the Development Review Committee, pursuant to Sec. 5.6, prior to submittal of a preliminary plat and construction plans for Technical Compliance approval pursuant to Sec. 8.13.

C. **Procedure.**

1. **Application.** Application for Final Subdivision Plan approval shall be made in accordance with Sec. 5.6.

2. **Threshold Review requirement.** In order to be eligible to submit an application for Final Subdivision Plan review, the development shall have a currently valid certificate of threshold review, issued in accordance with and when required pursuant to Sec. 5.1.D. A copy of the currently valid certificate shall be attached to and made part of the application.

3. **Contents of application.** The application shall be submitted in a form established by the County Engineer, prescribed in the Land Development Forms Manual, and made available to the public. Contents of said application shall include, but not necessarily be limited to:

   a. A unified drawing describing existing site conditions, proposed streets, proposed lot layout, and other applicable development features in pictorial, note, or tabular form as appropriate;

   b. An internal traffic circulation analysis prepared by a professional engineer, adequate for determining the required classification of streets, the number of lanes, the requirement for traffic lights and other traffic control devices, and the capacity of the street system proposed or affected by the development, as well as the phasing of improvements;

   c. A preliminary stormwater management plan outlining the conceptual tertiary and secondary stormwater management facilities proposed for proper development of the subdivision, and prepared by a registered professional authorized through licensure by the state of Florida to perform such conceptual level of design for said stormwater management system; and

d. A statement that all applicable utility providers have agreed to serve the subdivision, except that where septic tank systems are proposed, a satisfactory subdivision analysis for septic tanks from the PBCPHU shall also be submitted.

4. **Resubmittals.** Final Subdivision Plan resubmittals required to address corrections or revisions requested by the Development Review Committee or for any modification by the developer shall be made in accordance with the applicable requirements of Sec.5.6.D.

D. **Development Review Committee action.** The Development Review Committee shall inform the developer that the plan and data as submitted do or do not meet the applicable provisions of this article in accordance with the procedures established pursuant to Sec. 5.6.D.

E. **Duration of Final Subdivision Plan approval.** The duration of Final Subdivision Plan approval shall be as specified by and subject to those provisions of Sec. 5.8 applicable to the development. **[Ord. No. 94-23]**

[Ord. No. 93-4] [Ord. No. 94-23]

SEC. 8.13 TECHNICAL COMPLIANCE.

A. **Purpose.** The purpose of Technical Compliance is to provide a multi-agency review of the proposed subdivision plat and all applicable required improvement construction plans for conformance with technical and legal requirements of this article, other applicable provisions of this Code, the County Standards, and the approved Final Subdivision Plan (including any special conditions of approval) prior to application by the developer for issuance of a Land Development Permit and submittal of the Final Plat for recordation.

B. **Application.** Prior to the expiration of the Final Subdivision Plan approval and prior to commencing construction of required improvements, the developer shall have prepared and shall submit to the County Engineer an application for Technical Compliance review, which shall be accompanied by the required fee and the required number, as established by the County Engineer, of the following documents and information, as applicable to the subdivision or approved phase thereof. Within three (3) days of receipt of an initial application submittal for Technical Compliance, the County Engineer shall review the submittal for completeness and shall send written notification to the applicant if the submittal is determined to be incomplete. Failure by the applicant to complete the application submittal within sixty (60) days of the date of said notification shall be considered an abandonment of the application and any subsequent submittal shall require a new Technical Compliance application.

1. **Preliminary plat.** The developer shall submit the preliminary plat meeting the requirements of Sec. 8.20.A.

2. **Certified survey.** The developer of a subdivision for which the requirement to plat has been waived pursuant to Sec. 8.9.B. shall submit the applicable certified survey meeting the requirements of Sec. 8.19.

3. **Construction plans and supplemental engineering reports.** Except for those required improvements which have been specifically waived pursuant to Sec. 8.9.C, construction plans and supporting design information for all the required improvements shall be submitted for each subdivision. Construction plans and required engineering reports shall comply with the requirements of Sec. 8.16.

4. **Certified opinion of cost.** The developer's engineer shall prepare and submit a certified opinion of cost, which shall include the cost of installing all required improvements required pursuant to Sec. 8.21.A. In the alternative, the County Engineer may, at his sole discretion, accept the contract price received by the developer for the construction of the required improvements.

C. **Review of the Technical Compliance submittal.**

1. **Agency comments.** Within five (5) days of receipt of a complete application, the County Engineer shall forward copies of appropriate submittal documents to the following agencies for written comments regarding conformance with requirements of their respective regulations and program responsibilities:

   a. Director, Land Development Division of DEPW: construction plans and preliminary plat;

   b. Director, Traffic Division of DEPW: construction plans and preliminary plat;

   c. Director, Survey Section of DEPW: preliminary plat;

   d. Director, Zoning Division of PZ&B: preliminary plat;

   e. Director, Planning Division of P&B: preliminary plat;

   f. Director, Parks and Recreation Department: preliminary plat;

   g. Director, Roadway Production Division of DEPW: construction plans and preliminary plat for Thoroughfare Plan streets;

   h. Director, Environmental Resources Management: preliminary plat;

   i. Florida Department of Transportation: preliminary plat for lands abutting State roads;

   j. Local water control district: preliminary plat for lands abutting water control district facilities, easements, or rights-of-way;

   k. County Attorney: preliminary plat; and

   l. Director of Property and Real Estate Management: preliminary plat.

   Said agencies shall be given twenty (20) days to forward comments to the County Engineer. Within five (5) days of the end of this twenty (20) day period, the County Engineer shall forward all comments to the developer in writing, with a copy to the developer's engineer.

2. **Submittal fails to meet requirements.** When the County Engineer determines that the Technical Compliance application submittal does not meet the provisions of this article, the written statement shall reference the specific section or standard with which the submittal does not comply. Within sixty (60) days of receipt of the comments letter, the developer shall cause all corrections or revisions referenced in the comments letter to be made, and shall resubmit the required documents and information. Failure to resubmit within the required time shall be deemed an abandonment of the application and any subsequent submittal shall require a new Technical Compliance application.

3. **Submittal meets requirements.** When the County Engineer determines that the Technical Compliance application submittal meets the provisions of this article, the submittal shall be deemed to technically comply with the provisions of the article and a written statement of Technical Compliance shall be issued.

D. Technical Compliance approval. The statement of Technical Compliance shall be in writing and furnished to the developer and the developer's engineer. The statement shall contain the following conditions and information:

1. The name of the documents reviewed;

2. The amount of surety for the construction of required improvements, established in accordance with Sec. 8.14.A.6;

3. The amount of recording fees due for recordation of the final plat or certified survey, which fees are payable to the Clerk of the Circuit Court of Palm Beach County;

4. A requirement to submit with the Land Development Permit application a copy of all applicable property owners' association documents; and

5. Requirements for submittal of supplementary documentation deemed necessary by the County Engineer, such as deeds, easements, covenants and other recorded instruments creating rights or obligations for access, drainage, or utility services, which rights or obligations could not be established through dedications or reservations on the plat.

E. Expiration of Technical Compliance. The statement of Technical Compliance shall expire (6) months after its date of issuance. Failure to make a Land Development Permit application submittal prior to the expiration of the statement of Technical Compliance shall void the Technical Compliance approval and any subsequent submittal shall require a new Technical Compliance application.

F. Effect of changes to Final Subdivision Plan. Any change to a Final Subdivision Plan, however approved, which would either increase or decrease the number of units in, or would, in the opinion of the County Engineer, cause a substantial change or revision to any preliminary plat or associated construction plans under review or approved for Technical Compliance shall void any approvals issued for same pursuant to this article and shall require a new submittal and fee for such plat and construction plans. Such determination shall be in writing and forwarded within ten (10) days to the Developer's Engineer, with a copy to the Zoning Director.

SEC. 8.14 LAND DEVELOPMENT PERMIT.

A. **Land Development Permit Application submittal.** A Land Development Permit shall be required prior to commencement of construction of any required improvement. The effective date of the Land Development Permit shall be the date the County Engineer signs it. The Land Development Permit shall expire not more than twenty-one (21) months from the effective date, unless extended pursuant to Sec. 8.17.B. Except when the installation of all required improvements has been waived pursuant to Sec. 8.9.C, the Final Plat or certified survey, as applicable, shall not be recorded until the developer has either installed the improvements or has guaranteed the installation of the improvements pursuant to the requirements of Sec. 8.14.A.6, below. As the final step in the review procedures to obtain development approval under this article, the developer shall have prepared and shall submit, prior to expiration of the Technical Compliance, an application for Land Development Permit. The application for Land Development Permit shall be accompanied by the required fee and the required number, as determined by the County Engineer, of the following documents applicable to the subdivision or approved phase thereof:

1. **Final plat.** Developments which are platting shall submit the Final Plat complying with Sec. 8.20.B, and a check for the plat recordation, payable to the Clerk of the Circuit Court of Palm Beach County, in the required amount.

2. **Certified survey.** Developments for which the requirement to plat has been waived pursuant to this article shall submit a check payable to the Clerk of the Circuit Court of Palm Beach County for the recordation of the survey. When construction plans are not required, the certified survey may be recorded without further review, provided, however, that the County Engineer shall review any documents submitted in compliance with Sec. 8.14.A.3.

3. **Maintenance and use documents and other documents.** A copy of the maintenance and use covenants and any other documents required by the County Engineer as a condition of Technical Compliance shall be submitted. The maintenance and use covenants shall indicate the maintenance responsibility for all common areas and improvements within the subdivision, and shall comply with all applicable requirements as specified in Sec. 7.15.

4. **Construction plans and supplemental engineering information.** Construction plans shall conform with the plans which received Technical Compliance or, if modified, shall be accompanied by a written statement from the Developer's engineer which details, explains, and justifies the modifications. Construction plans shall comply with the requirements of Sec. 8.16 and, prior to issuance of a Land Development Permit, shall have received all applicable approvals of requisite governmental agencies.

5. **Developer's Acknowledgement of Responsibility for Construction of Required Improvements.** The application shall indicate whether the required improvements are to be constructed prior to recordation or after recordation of the plat or survey. When the required improvements are to be constructed after recordation, the Developer shall submit a statement acknowledging responsibility for completion of said required improvements. The statement shall be in the form contained in the latest version of the Land Development Forms Manual and shall be executed by all owners shown the applicable final plat. The statement shall be accompanied by a guaranty for completion of required improvements, pursuant to Sec. 8.21.A. Said guaranty shall meet the applicable requirements of Sec. 8.14.A.6.

6. **Guaranties.** All guaranties required pursuant to Sec. 8.21.A shall be in one of the forms prescribed in the Land Development Forms Manual or in an alternate form approved by the County Attorney. The initial guaranty shall be in an amount equal to one hundred ten (110) percent of the construction cost of the required improvements. The guaranty shall be in one of the following types.

   a. **Cash bond.** Completion of the required improvements may be secured by cash deposited by the developer with the County or in an account subject to the control of the County in accordance with an agreement on such deposit or account. The developer shall be entitled to receive any interest earned on such deposit or account.

   b. **Letter of credit.** Completion of the required improvements may be secured by a clean irrevocable letter of credit issued to the County in accordance with the County Letter of Credit Policy. The expiration date of the letter of credit shall be at least three (3) months after the completion date for construction of required improvements pursuant to the initial Land Development Permit or any subsequent extension thereto.

   c. **Performance or surety bond.** Completion of the required improvements may be secured by a performance or surety bond obtained from a company acceptable to the County in accordance with the County policy on performance bonds. It shall guarantee that all work will be completed in full accordance with the approved Land Development Permit.

   d. **Escrow deposit.** Completion of the required improvements may be secured by an executed escrow agreement, between the Developer, a bank approved by the County, and the County as the third party beneficiary. The escrow agreement shall require that release of the funds, or any part thereof, shall be subject to County approval.

   [Ord. No. 94-9]

B. **Action by the County Engineer.** The County Engineer shall examine the submittal for completeness in compliance with this article. Within thirty (30) days of receipt of a complete submittal, the County Engineer shall review the submittal for conformity with this article and shall advise the developer of his findings in writing, with a copy to the developer's engineer.

1. **Submittal fails to meet ordinance.** When deficiencies exist, the County Engineer shall reference in writing the specific section or standard with which the Land Development Permit submittal does not comply. The developer shall correct such deficiencies within thirty (30) days of receipt of the written report. Failure to respond within the given time shall deem the submittal abandoned and any subsequent submittal shall require a new application and submittal for a Land Development Permit.

2. **Submittal meets ordinance.** When the submittal meets the provisions of this article, the County Engineer shall sign the Land Development Permit and, if applicable, shall sign and seal the final plat and submit said approved plat to the Clerk of the Circuit Court for recordation.

[Ord. No. 94-9] [Ord. No. 95-33]

SEC. 8.15 SUBSTITUTION OF DEVELOPERS.

A. **Voluntary substitution of developers.** When there is a voluntary substitution of developers after the Land Development Permit has been issued but before the County has acknowledged completion of the required improvements, it shall be the responsibility of both developers to transfer the rights and responsibilities from the original developer to the succeeding developer. The original and succeeding developers shall make a joint application to the County Engineer for a transfer of the original developer's Land Development Permit. If the original developer posted a guaranty with the County for completion of required improvements, the succeeding developer must post a substitute guaranty in the current amount of the original developer's guaranty and in a form acceptable to the County. The application for transfer shall include the executed acknowledgement of responsibility for completion of required improvements pursuant to Sec. 8.14.A.5.

B. **Involuntary substitution of developers.** When a developer becomes the succeeding developer through foreclosure or some similar action and it is not possible to obtain the original developer's signature on a joint application for transfer of the Land Development Permit, the succeeding developer must comply with all provisions of Sec. 8.15.A, except that, in lieu of said original developer's signature, the succeeding developer shall submit a current certification of title, foreclosure judgment, or other proof of ownership of the lands encompassed by the plat referred to in the Land Development Permit.
[Ord. No. 94-9]

SEC. 8.16 CONSTRUCTION PLANS AND SUPPLEMENTAL ENGINEERING INFORMATION.

A. **Duties of developer's engineer.** When the development is to be engineered by more than one firm, the developer shall appoint a single engineering firm or engineer to coordinate submission of the construction plans and construction of the required improvements.

B. **Submittal requirements.** Construction plans and supplemental engineering information shall be submitted under separate cover for each of the categories of improvements listed in this section. Plan sets shall be submitted in the number required by the County Engineer, as prescribed in the Land Development Forms Manual.

1. **Submittals for required improvements.** The following construction plans shall be submitted for the required improvements set forth in Sec. 8.21, when applicable. Construction plans shall be signed and sealed by the preparing engineer.

   a. Paving, grading and drainage;

   b. Bridges;

   c. Water and sewer systems:

      (1) for technical compliance submittal: the proposed plans submitted for Public Health Unit approval;
      (2) for land development permit submittal: construction plans stamped with Public Health Unit approval.

2. **Submittals for other improvements.** Construction plans shall be submitted for the following additional improvements which the developer may elect to construct:

   a. Landscaping, guardhouse, gates or other structures within streets;

   b. Landscaping or structures in lake maintenance easements: See Sec. 8.18.A.

C. **Completeness of construction plans.** All construction plan submittals shall be so complete as to be suitable for contracting and construction purposes. Design data, calculations and analyses shall be submitted to address important features affecting design and construction and shall include, but not be limited to, those for design high water, drainage facilities of all kinds, subsurface soil data, alternate pavement and subgrade types, and any proposed deviation from County standard design requirements.

D. **Format and content of construction plans for required improvements.** All construction plan submittals for the installation of required improvements shall consist of and contain, but shall not be limited to:

1. A cover sheet showing the applicable plat name, sheet index, category of improvements, and, vicinity sketch;

2. Typical sections;

3. Construction details showing compliance with County standards, or with any alternate design approved by the County Engineer pursuant to Sec. 8.18.C;

4. Special profile sheets as required to show special or unique situations;

5. Bench mark, based on NGVD (1929);

6. Notes regarding special conditions and specifications applicable to the construction, addressing:

   a. required compliance with construction requirements of this article and the County standards;

   b. required compliance with State standards applicable to the work;

   c. minimum standards for materials;

   d. test requirements for compaction or stabilization of subgrade, base, and backfill;

   e. required installation of underground utilities and storm drainage located within the streets prior to construction of subgrade for street pavement;

   f. special construction or earthwork requirements for site work in areas of nonpervious or unstable soils, or to cope with unsuitable soil conditions.

7. Depiction of all parking areas required to be constructed by Sec. 8.22, clearly identifying and delineating each clustered lot and each parking area serving more than one clustered lot when such lots do not abut a street.

E. **Final stormwater management plan.** The Technical Compliance application shall include the final stormwater management plan, based upon and consistent with the preliminary stormwater management plan, in separate report form detailing the design of all secondary and tertiary stormwater management facilities, including, as a minimum, the following design data and information:

1. Pre-development and post-development drainage basin maps showing site topography, drainage basins, catchment areas, and stormwater inflow/outflow locations for the site;

2. Pre-development and post-development site characteristics affecting runoff such as ground cover, soil profile, wet season mean high water table elevations and recurring high water elevations in receiving watercourses or waterbodies;

3. Individual catchment area characteristics used for design, including area, times-of-concentration, runoff factors, and quantitative breakdown of pervious/impervious areas;

4. A statement of applicable design and/or performance assumptions and criteria for each part of the system providing drainage, treatment, or discharge control;

5. Evidence of existing access to legal positive outfall(s);

6. Complete hydrologic and hydraulic calculations for design of storm sewers, retention/detention area, and discharge structures;

7. Identification of standard methods and/or proprietary models used for hydrologic and hydraulic analysis, noting that methods or models other than those of the Department of Transportation, South Florida Water Management District, SCS, the rational method, the SBUH method, the Puls method or common modifications of such methods, may require additional documentation;

8. A listing of specific County and South Florida Water Management District requirements used as the design basis for street drainage, lot grading, finished floor elevations, floodplain storage compensation, retention/detention volumes, and discharge limits; and

9. Requirements for construction and maintenance of any temporary or phased stormwater management facilities necessary to ensure proper stormwater control and treatment during site development.

F. **Soils report.** The Technical Compliance application shall include a soils report describing soil profiles of the work site to such depth and extent necessary to determine special design or construction needs. In lieu of Sec. 8.16.F.4 and 5, the Developer may submit as part of the report a certified statement from an engineer that he has investigated the subsurface conditions of the site and has determined that such conditions are suitable for the work as shown on the construction plans. The soils report shall include:

1. A map, drawn to stated scale, showing boring, penetrometer, and/or test pit locations;

2. Results of each boring or other soil test, keyed to the map;

3. Soil profiles with horizons described according to the USDA, ASTM, or Unified standard soils classified system;

4. Location and extent of muck, hardpan, marl, or other deleterious materials which may require special consideration in design or construction; and

5. A description of groundwater conditions which may require special consideration in design or construction.

SEC. 8.17 CONSTRUCTION OF REQUIRED IMPROVEMENTS.

A. **Developer's duty.** Upon issuance of the Land Development Permit, the developer shall coordinate the construction with the County Engineer.

B. **Time of completion of required improvements.**

1. The time of completion of all required improvements shall not exceed twenty-one (21) months from the date of issuance of the Land Development Permit unless an extension is granted pursuant to this section.

2. A one (1) year time extension may be granted by the County Engineer after review of the written application for extension of the developer. The developer should submit the application for extension, including but not limited to a statement of justification and proof that an acceptable guaranty will remain in place for the duration of the extension, not less than two (2) months prior to expiration of the Land Development Permit. Applications submitted after expiration of the Land Development Permit shall not be accepted. The County Engineer shall review and advise the developer in writing of his decision within one (1) month of receipt of the application.

C. **Completion prior to recordation.** When the developer elects to complete required improvements prior to recording of the final plat or certified survey, the following procedures shall apply, as applicable.

1. Upon approval of the final plat and acknowledgement of completion of the required improvements pursuant to Sec. 8.17.G, the plat shall be submitted to the Office of the Clerk of the Circuit Court for recordation.

2. When the County Engineer finds that the certified survey and completion of the required improvements are in compliance with all requirements of this article, he shall cause the certified survey to be recorded in the Office of the Clerk of the Circuit Court.
[Ord. No. 95-33]

D. **Completion after recordation.** When the developer elects to guarantee the construction of the required improvements in order to complete same after recordation, the County Engineer may approve reductions of the amount of the guaranty and release the guaranty in accordance with the requirements and procedures prescribed in this subsection. All requests for reduction shall be by application to the County Engineer. A complete application shall include, at a minimum, a certified cost estimate from the developer's engineer for both the completed and the remaining required improvements. The County Engineer shall have the right to reduce the amount of any requested reduction based on his review of the application and required improvements. The County Engineer shall also have the right to refuse to approve any requested reduction so long as the developer fails to be in compliance with any of the terms and conditions of this article, the plat, or the plans and specifications for the required improvements. The County Engineer shall give written notification to the developer and the guarantee principal of his decision on the application within one (1) month of the application being deemed complete. Any approval under this section shall be conditioned upon the guarantee principal providing, within one (1) month of receipt of the County Engineer's written notification, written confirmation of the reduction in a form acceptable to the County Attorney.

1. **Frequency of reductions in amount of guaranty.** Reductions in the amount of the guaranty may be approved by the County Engineer in accordance with the following schedule.

a. **Cash deposits and escrow agreements.** The deposit or account may be reduced as installations progress at stages of construction established by the County Engineer, but not more frequently than monthly.

b. **Letters of credit and performance or surety bonds.** Quarterly during the process of construction and upon request by the developer, the County Engineer may reduce the dollar amount of the guaranty.

2. **Amount of reductions in guaranties.** The County Engineer shall not reduce the amount of any guaranty below twenty (20) percent of the original cost estimate amount. In addition to this limitation, no reduction in the dollar amount of the guaranty shall be made unless sufficient funds will remain to complete the remaining required improvements and the cost of required improvements installed equals or exceeds the amount of the request. To ensure that sufficient funds remain for completion of the remaining required improvements, the County Engineer shall release not more than ninety (90) percent of the dollar amount of required improvements certified as completed during the period for which a reduction is requested.

3. **Release of guaranty.** The guaranty shall only be released upon acknowledgement of completion of the required improvements pursuant to Sec. 8.17.G. Two (2) weeks prior to the release of the guaranty, the County Engineer shall notify the appropriate District Commissioner of intent to release.

E. **County use of funds; failure of developer to complete.** The County Engineer, as the authorized agent of the Board, shall have the right to any funds available under the guaranty to secure satisfactory completion of the required improvements in the event of default by the developer or failure of the developer to complete such improvements within the time required by Sec. 8.17.B. The County Engineer shall send the developer a courtesy written notice of the County's intent to expend any drawn funds or demand performance, as applicable. Such notice shall be sent at least thirty (30) calendar days prior to said expenditure or demand, and shall be mailed to the last known address of the developer or his authorized agent according to the Land Development Permit records on file with the County Engineer.

F. **Administration of construction.**

1. **Construction standards.** Construction standards shall be those prescribed in the current County Standards.

2. **Inspections, reports, and stop work orders.** The County Engineer shall be notified in advance of the date of commencement of construction pursuant to the Land Development Permit, and of such points during the progress of construction for which joint review by the County Engineer and developer's engineer are required.

a. Construction shall be performed under the surveillance of, and shall at all times be subject to, review by the County Engineer; however, this in no way shall relieve the developer of the responsibility for ensuring close field coordination and final compliance with the approved plans, specifications and the requirements of this ordinance.

b. The developer shall require progress reports of the construction of the required improvements from the developer's engineer. The developer's engineer may also be required to submit construction progress reports directly to and at points of progress prescribed by the County Engineer. The developer's engineer shall coordinate joint reviews of the construction with the County Engineer at points specified by the County Engineer.

c. The County Engineer shall have the right to enter upon the property for the purpose of reviewing the construction of required improvement during the progress of such construction. The County Engineer shall have the authority to stop the work upon failure of the developer or his engineer to coordinate the construction of the required improvements as required by this subsection.

3. **Measurements and tests.** During construction, the developer's engineer shall make or cause to be made such measurements, field tests, and laboratory tests necessary to certify that the work and materials conform with the approved development plans and the provisions of this article. The County Engineer may require, at his discretion, specific types and locations of tests and measurements which he deems necessary to demonstrate conformance with approved plans and specifications.

4. **Engineer's certificate of completion.** The required improvements shall not be considered complete until a certificate of completion, certifying to construction in conformance with the approved plans, and the final project records have been submitted to, reviewed, and approved by the County Engineer. The certificate shall be signed and sealed by the developer's engineer and shall be in a form established by the County Engineer, as prescribed in the Land Development Forms Manual. Said certificate shall make specific reference to, and be accompanied by copies of measurements, tests and reports made on the work and materials during the progress of construction, along with a Record Drawing copy of each of the construction plans on a high quality, time-stable, reproducible mylar, showing the original design in comparison to the actual finished work with all material deviations noted thereon.

G. **Acknowledgment of completion and maintenance of required improvements.**

1. **Developer's Warranty on workmanship and material.** The developer shall execute and submit a warranty guaranteeing the required improvements against defect in workmanship and material for a period of one (1) year after acknowledgment of completion pursuant to this Section. Said warranty shall be submitted to the County Engineer along with the completion certificate and project records. The warranty shall be in a form approved by the County Attorney and prescribed in the Land Development Forms Manual.

2. **Acknowledgment of completion by County Engineer; release of guaranty.** Upon submittal of the documents and records required by Secs. 8.17.F.4 and 8.17.G.1, and recorded copies of the approved Maintenance and Use Covenants, the County Engineer shall determine the completeness of the required improvements in accordance with the provisions of this article and the Land Development Permit. When the County Engineer determines that the required documentation is acceptable and the required improvements have been installed as required by this article he shall acknowledge completion of the required improvements and, when a guaranty has been posted, release the guaranty in accordance with the following.

   a. **If the final plat has been recorded.** When the applicable plat has already been recorded, the County Engineer shall issue a written statement to the Developer acknowledging completion of required improvements and releasing the guaranty.

   b. **If the final plat has not been recorded.** When the final plat has not been recorded, at the time of acknowledgement of completion the County Engineer shall review said final plat for conformance with current certification and approval requirements. Upon determining that the final plat meets said requirements, the County Engineer shall approve the plat and submit it to the Clerk of the Circuit Court for recordation.

c. **Effect of release.** Issuance of the statement acknowledging completion and, when applicable, releasing the guaranty shall relieve the developer of his obligations for construction of required improvements but shall not relieve the developer of his obligations under the warranty for required improvements required under Sec. 8.17.G.1.

3. **Acceptance of dedications and maintenance of improvements.** The acceptance by the Board of any dedication to the Board of public space, parks, rights-of-way, easements or the like on a plat shall not in itself constitute an acceptance by the County of any responsibility to construct or maintain improvements within the dedicated area. Acceptance of dedications and maintenance responsibility for improvements within areas dedicated to the Board shall be made as follows.

   a. **Acceptance of dedications.** The recordation of a final plat, subsequent to the County Engineer's approval of said final plat for recordation, shall constitute acceptance by the Board of any and all dedications to the Board as stated and shown on the plat.

   b. **Acceptance of dedications of real property.** For those dedications to the Board of real property, including rights-of-way, parks, and other tracts, an executed deed transferring title to such lands, plus such documentation of title and absence of encumbrances as required pursuant to County policy for acceptance of deeds, shall be submitted to the County Engineer at the time of submittal of the applicable Final Plat for recordation. Said deed(s) shall be on a form approved by the County Attorney, and shall be recorded by the County subsequent to recordation of the applicable Final Plat.

   c. **Acceptance of improvements for County maintenance.** At such time as the County Engineer has issued a statement acknowledging completion of the required improvements and the applicable plat has been recorded, the County Administrator or the County Engineer, on behalf of the County, shall accept maintenance responsibility for the required improvements to streets and to such other areas dedicated to the Board in accordance with the dedications shown on said record plat, and shall issue a written statement confirming acceptance of said maintenance responsibility.

4. **County completion of required improvements in recorded subdivisions.** The County may complete the required improvements, under the guaranty provided by the developer, when the corresponding plat has been recorded and the developer fails to complete the required improvements as required by this article. In such case, the County Engineer shall call upon the guaranty to secure satisfactory completion of the required improvements. Notice of said call shall be deemed upon posting via certified mail. Upon the completion of such action, the County Engineer shall report to the Board and the Board may accept by resolution the dedication and maintenance responsibility as indicated on the plat. In such cases, the remaining guaranties posted by the developer shall be retained for a period of one (1) year after completion in lieu of the agreement. Any defects occurring during this period shall be repaired using funds remaining in the guaranty.

5. **Developer's failure to complete improvements in unrecorded subdivisions.** Where a developer has elected to install the required improvements prior to recordation of the plat and fails to complete such improvements within the time limits prescribed in Sec. 8.17.B, all previous approvals applicable to the proposed subdivision shall be deemed void.
   [Ord. No. 94-9] [Ord. No. 95-33]

SEC. 8.18 SUPPLEMENTAL PROCEDURES.

A. Construction and landscaping in lake maintenance easements and water management tracts.

1. **Purpose.** It is the purpose of this subsection to allow for the construction or placement of structures and plants adjacent to, or over, water bodies within water management tracts, while taking measures to ensure that such structures or plants shall not interfere with the proper functioning of the stormwater management system nor be otherwise detrimental to the health, safety, welfare, or convenience of the public or of persons responsible for or affected by a water body within a water management tract.

2. **Prohibition.** The placement or construction of trees, shrubs, or structures within any water management tract established for purposes of wet detention/retention in an open water body, or easement or berm adjacent thereto established for purposes of access for maintenance of the water body or water management tract or structures and facilities therein is hereby prohibited, except in strict conformance with the provisions of this subsection.

3. **Application requirements for bulkheads, docks, or piers.** Persons desiring to construct bulkheads, docks, or piers over or along a water body contained within a water management tract shall apply to the Director of ERM in accordance with the applicable provisions of Sec. 7.6.

4. **Application requirements for structures or plantings in lake maintenance easements.** Persons desiring to place trees or shrubs or construct or place structures within a lake maintenance easement shall apply to the County Engineer. The County Engineer shall ensure that adequate conditions are imposed, and appropriate documents are executed and, if appropriate, recorded to ensure compliance with the provisions of this subsection and approvals granted pursuant to this article.

5. **Structures or plantings.** The provisions herein shall be applied to approvals by the County Engineer for the installation of structures or plantings in, on, or over lake maintenance easements. The following criteria shall apply to the installation of such structures and plantings.

   a. No structures except those which may be easily removed shall be permitted in lake maintenance easements. Examples of impermissible structures are houses, garages, screened enclosures, concrete block walls, concrete decks, affixed permanent sheds, and pools. Examples of permissible structures are thatch sheds, wood decks, and non-concrete fences, contingent on said structures not being structurally affixed to the ground.

   b. Trees or shrubs shall not be planted, nor structures placed, in the lake maintenance easement where the planting or placement of such would obstruct access by equipment to outfalls or water control structures.

   c. A removal declaration in a form acceptable to the County Attorney shall be recorded, at the expense of the property owner.

   d. The property owners' association's consent to the specific structure(s), tree(s), or shrub(s) shall be required where a property owners' association has responsibility for lake maintenance. If any other entity has a beneficiary interest in the easement or a responsibility for lake maintenance, that entity's consent shall be required.

e. Trees or shrubs planted pursuant to this subsection shall be limited to those species permitted pursuant to Sec. 7.3.F., and shall not include any portion of the minimum site landscaping required pursuant to Sec. 7.3.E.

6. **Repair, replacement, or modification.** Any repair, replacement, or modification, except ordinary maintenance, to any planting or structure approved pursuant to this subsection, shall be done only after being approved as new planting or construction pursuant to this subsection.

B. **Dredge, fill and construction in waters of the State.**

1. **Applicability.** Subdivision of lands containing or abutting existing or proposed waters of the State, including canals, lakes, streams, and wetlands, shall comply with and conform to the requirements of this subsection.

2. **Easements or rights-of-way.** Where land within a proposed subdivision abuts existing or proposed waters of the State, there shall be provided a floodway or floodplain easement or a drainage right-of-way conforming substantially with the lines of such watercourse or water body and of such further width or construction or both as will be adequate for the purpose. Additional easement or right-of-way width may be required where necessary for maintenance, safety and convenience. Each required easement and right-of-way shall be deeded or dedicated to an appropriate public agency. Maintenance responsibility and use limitations applicable to said easements and rights-of-way, or any facilities placed therein, shall be in accordance with all applicable permit conditions and shall be stated or referenced by note on the appropriate plat(s).

3. **Permits.** Where proposed dredging or filling affects waters of the State or sovereign land, said activities shall be approved by the governing agency having jurisdiction in such matters. Prior to the construction of any seawall, bulkhead, dock or pier, a construction permit shall be obtained from the Palm Beach County Building Department in addition to all required permits or expressed exemption from permitting for construction in waters of the State.

C. **Alternate design, construction standards, and types of materials.**

1. **Applicability.** Alternate designs, construction standards, and types of materials which, in the opinion of the County Engineer, are equal or superior to those specified may be approved in accordance with this subsection.

2. **Contents of application.** The application shall be submitted in a form established by the County Engineer, prescribed in the Land Development Forms Manual, and made available to the public. Said application shall be accompanied by written data, calculations and analyses, and drawings which are necessary to show, by accepted engineering principles, that the proposed alternates are equal or superior to those specified, or are necessary due to environmental considerations. Within forty five (45) days of receipt of such application, the County Engineer shall either approve or deny the application and shall advise the Developer's Engineer and the Developer in writing of the decision.

3. **Environmental considerations.** In the interest of the preservation of existing trees and other natural features at the developer's request, or as required by other regulations, the County Engineer may vary the design and construction requirements upon presentation by the developer of substantial evidence that environmental conditions will be enhanced, that proper performance of the approved stormwater management system will not be impaired, and that safety, stability, and design life of structural improvements will not be compromised.

SEC. 8.19 REQUIREMENTS FOR CERTIFIED SURVEY.

A. General. The County Engineer shall adopt and amend, from time to time, the criteria for the certified survey. At a minimum, the certified survey shall meet the requirements for surveys established by the Minimum Technical Standards set forth by the Florida Board of Professional Land Surveyors in Chapter 21HH-6.003, F.A.C., pursuant to Sec. 472.027, Fla. Stat.

B. Alternatives. The County Engineer shall reserve the right to require a certified sketch and legal description in lieu of a certified survey. The certified sketch and legal description shall meet the requirements for certified sketches and descriptions set forth by Chapter 21HH-6.006, F.A.C., pursuant to Sec. 472.027, Fla. Stat. and Palm Beach County Description Checklist pursuant to policies and procedures established by the County Engineer and made available to the public.

C. Recordation. The certified survey or sketch and legal description shall not require approval of the Board prior to recordation.

SEC. 8.20 REQUIREMENTS FOR THE PRELIMINARY AND FINAL PLAT.

A. Preliminary plat. The preliminary plat shall meet the requirements of the Final Plat, except that it shall be submitted without the required signatures and seals. It may also be submitted without maintenance and use covenants, condominium documents, deeds, or other legal documents not related to the survey or engineering design of the project.

B. Final plat. The plat shall be prepared in accordance with the provisions of Chapter 177, Fla. Stat., as amended, and shall conform to the requirements of this section.

1. **Material.** The plat shall be drawn or printed on twenty-four (24) inch by thirty-six (36) inch linen, chronoflex, mylar or other approved material.

2. **Preparation.** The plat shall be prepared by a land surveyor currently registered in the State of Florida and is to be clearly and legibly drawn with black permanent drawing ink or veritype process to a scale of not smaller than one inch equals one hundred (100) feet, or as otherwise determined by the County Engineer.

3. **Name of subdivision.** The plat shall have a name acceptable to the County. When the plat is a new subdivision, the name of the subdivision shall not duplicate or be phonetically similar to the name of any existing subdivision. When the plat is an addition to or replat of a recorded subdivision, it shall carry the same name as the existing subdivision followed by a suitable phase designation or similar modifier, when applicable.

4. **Title.** The plat shall have a title printed on each sheet in bold legible letters containing:

a. The name of the subdivision, printed above and in letters larger than the balance of the title;

b. The name of the County and State;

c. The section, township and range as applicable or if in a land grant, so stated;

d. When the plat is a replat, amendment or addition to an existing plat of record, the words "section", "unit", "replat", "amendment", etc.; and

e. When the plat encompasses lands in a planned unit development, the abbreviation "PUD". Likewise, all other planned developments shall contain the appropriate abbreviation for such designation within the title.

5. **Description.** There shall be lettered or printed upon the plat a full and detailed description of the land embraced in the plat. The description shall show the section, township and range in which the lands are situated or if a land grant, so stated, and must be so complete that from it without reference to the map the starting point can be determined and the boundaries run.

6. **Index.** If more than one sheet is required for the map, the plat shall contain an index map on the first page, showing the entire subdivision and indexing the area shown on each succeeding map sheet. Each map sheet shall contain an index delineating that portion of the subdivision shown on that sheet in relation to the entire subdivision. When more than one sheet must be used to accurately portray the lands subdivided, each sheet must show the particular number of that sheet and the total number of sheets included, as well as clearly labeled match lines between map segments.

7. **Survey data.** The plat shall show the length of all arcs together with central angles, radii, and points of curvature. Sufficient survey data shall be shown to positively describe the boundary of each lot, block, right-of-way, street, easement, and all other areas shown on the plat and all areas shall be within the boundary of the plat as shown in the description. The plat shall also include the following items in the manner described below.

a. The scale, both stated and graphically illustrated, shall be shown on each sheet.

b. A prominent north arrow shall be drawn on every sheet included showing any portion of the lands subdivided. The bearing or azimuth reference shall be clearly stated on the face of the plat in the notes or legend.

c. The point of beginning shall be boldly shown together with the letters "P.O.B." in bold letters.

d. All intersecting street lines shall be joined to form required safe sight corners pursuant to the County standards, and all dimensions shall be shown.

e. All adjoining property shall be identified by a subdivision name, plat book and page or, if unplatted, the land shall be so designated.

f. Permanent reference monuments shall be shown in the manner prescribed by Chapter 177, Fla. Stat., as amended. All information pertaining to the location of "P.R.M.s" shall be indicated in note form

on the plat. Permanent Control Points and Permanent Reference Monuments shall be designed and set as prescribed by Chapter 177, Fla. Stat., as amended, and Sec. 8.29.F.

g. There shall be reserved on each sheet of the plat a three (3) inch by five (5) inch space in the upper right hand corner to be used by the Clerk of the Circuit Court for recording information and each sheet shall reserve three (3) inches on the left margin and a half (1/2) inch margin on all remaining sides.

h. The map shall mathematically close within 0.01 feet and shall be accurately tied to all County township, range and section lines occurring within the subdivision by distance and bearing.

i. The initial point in the description shall be accurately tied to the nearest quarter section corner or section corner or government corner. Each government corner being used shall be identified. If the subdivision being platted is a re-subdivision of a previously recorded subdivision, then a tie to a Permanent Reference Monument from the parent plat is sufficient. If the subdivision is a re-subdivision of a part of a previously recorded subdivision, sufficient ties to controlling lines appearing on the parent plat must be provided to permit an overlay. The position and orientation of the plat shall conform to the Florida State Plan Coordinate System in the manner established by the County Engineer and prescribed in the Land Development Forms Manual.

j. The cover sheet or first page of the plat shall show a vicinity sketch, showing the subdivision's location in reference to other areas of the County.

k. A complete legend of abbreviations shall be shown.

l. All lettering on the plat shall be at a minimum 0.10 of an inch in height.

m. The plat boundary and all parcels shown on subdivision plats intended to be conveyed in fee title shall be delineated by solid lines.

n. Lines intersecting curves shall be noted as radial or non-radial as the case may be.

o. A note addressing any abandoned underlying lands or easements, including record information, shall be shown.

p. Tabulation of Survey Data:

(1) The use of tangent tables is not permitted. However, at the discretion of the County Engineer on a case by case basis, the use of a tangent table to reflect corner clip (safe sight) chords may be permitted if deemed necessary to meet requirements of neatness and clarity of the plat. Scale factors shall not be considered. Such tables, when permitted, must appear on the map sheet to which they refer and tangents shall be numbered consecutively through the entire presentation.

The possible exception noted above shall be limited to use on plats and shall not be carried into any other survey documents submitted for approval to the County Engineer.

(2) Curve data may be tabulated subject to the following conditions or exceptions.

(a) External boundary or centerline curve data may not be tabulated.

(b) Where data is tabulated, a minimum of the arc length and the curve designation number or letter will be shown on site.

(c) Curve tables reflecting the tabulated data will appear on the map sheet on which the curves appear.

8. **Lot and block identification.** Each lot and block shall be numbered or lettered. All lots shall be numbered or lettered by progressive numbers or letters individually throughout the subdivision or progressively numbered or lettered in each block. Blocks in each incremental plat shall be numbered or lettered consecutively throughout a subdivision.

9. **Street names.** The plat shall show the name of each street as shown on the Final Subdivision Plan and conforming with Sec. 8.22.A.20.

10. **Not included parcels.** Not included or excepted parcels must be marked "not a part of this plat". Where a not included parcel is completely surrounded by areas included within the plat, sufficient easements or rights of way to provide necessary access, utilities, and drainage to the not included parcel shall be provided. No parcel of land shall be reserved by the owner unless the same is sufficient in size and area to be of some particular use or service. The intended use of all reserved areas shall be shown on the plat in note form on the cover sheet.

11. **Streets and easements.** All street, right-of-way, and easement widths and dimensions shall be shown on the plat. Easements are to be tied at both ends at intersecting boundary, lot, or right-of-way lines. The plat shall show the name, location and width of all existing or recorded streets intersecting or contiguous to the boundary of the plat, accurately tied to the boundary of the plat by bearings and distances.

12. **Maintenance and use documents.** Maintenance and use covenants, as required by Sec. 7.15, shall be submitted with the Final Plat and approved by the County Attorney prior to recordation of the Final Plat. All areas of the plat that are not to be sold as individual lots and all easement shall be dedicated or reserved in accordance with the terms of the maintenance and use covenants, and their purposes shall be clearly stated on the plat.

13. **Streets.** All streets and their related facilities which are designed to serve more than one lot or dwelling unit shall be dedicated to the Board for public use, unless otherwise required or permitted by this paragraph or elsewhere in this article. Any street which is to be reserved as a private street shall be identified as a tract for private street purposes. Such street tracts shall be reserved in accordance with Sec. 8.20.B.15.a. Private streets may only be permitted when such streets are subject to a recorded declaration of covenants subjecting the streets to the jurisdiction and control of all lot owners deriving access from such streets, their successors and assigns. When parking areas are required to be constructed by Sec. 8.22, they shall be reserved to and shall be the perpetual maintenance responsibility of a property owners' association, which association shall have jurisdiction over the parking area and the clustered lots. Such parking areas shall be clearly identified and reserved as tracts for parking and access purposes.

14. **Restriction on obstruction of easements.** The plat shall contain a statement that no buildings or any kind of construction or trees or shrubs shall be placed on any easement without prior written consent of all easement beneficiaries and all applicable County approvals or permits as required for such encroachment.

15. **Certification and approvals.** The plat shall contain on the face or first page the following certifications and approvals, acknowledged as required by law, all being in the form set forth below.

a. **Dedication and reservation.** All areas dedicated for public use shall be dedicated by the owner of the land at the time the plat is recorded. Such public areas include, but are not limited to: civic sites, parks, rights-of-way for streets or alleys, however the same may be designated; easements for utilities; rights-of-way and easements for drainage purposes; and any other area, however designated. All areas reserved for use by the residents of the subdivision shall be reserved by the owner of the land at the time the plat is recorded. All dedications and reservations shall be perpetual and shall contain:

(1) The name of the recipient or beneficiary of the dedication or reservation (including successors and assigns);
(2) The purpose of the dedicated or reserved area; and
(3) The name of the entity responsible for the perpetual maintenance of the dedicated or reserved area (including successors and assigns). In the event Palm Beach County is not the recipient or beneficiary of the dedication or reservation, the statement of maintenance responsibility shall include the phrase "without recourse to Palm Beach County."

If so required, certain dedications or reservations shall grant Palm Beach County the right but not the obligation to maintain. The dedications and reservations shall be executed by all owners having a record interest in the property being platted. The acceptance on the plat of the dedications or reservations shall be required of any entity to whom a dedication or reservation is made, except the Board. Dedications to the Board shall be accepted according to Sec. 8.17.G.3. All dedications, reservations, and acceptances shall be executed in the same manner in which deeds are required to be executed according to Florida Statutes.

Although the term "dedication" is meant to imply a public use while the term "reservation" is meant to imply a private use, the terms may inadvertently be used interchangeably. Inadvertent misuse shall not invalidate any County requirement or plat dedication or reservation.

b. **Mortgagee's consent and approval.** All mortgages along with the mortgagee's consent and approval of the dedication shall be required on all plats where mortgages encumber the land to be platted. The signature(s) of the mortgagee or mortgagees, as the case may be, must be witnessed and the execution must be acknowledged in the same manner as mortgages are required to be witnessed and acknowledged. The form for the mortgagee's consent shall be as prescribed in the Land Development Forms Manual.

c. **Certification of surveyor.** The Final Plat shall contain the signature, registration number and official seal of the surveyor, certifying that the plat is a true and correct representation of the land surveyed under his responsible direction and supervision and that the survey data compiled and shown on the plat complies with all of the requirements of Chapter 177, Fla. Stat., as amended, and this article. The certification shall also state that permanent reference monuments ("P.R.M.s") have been set in compliance with Chapter 177, Fla. Stat., as amended, and this article. When the permanent control points ("P.C.P.s") are to be installed after recordation, the certification shall also state that the "P.C.P.s" will be set under the direction and supervision of the surveyor under the guarantees posted for required improvements within the plat. When required improvements have been completed prior to the recording of a plat, the certification shall state that "P.C.P.s" have been set in compliance with the laws of the State of Florida and ordinances of Palm Beach County. The form for the surveyor's certificate shall be as prescribed in the Land Development Forms Manual.

d. **County approval.** Signing and sealing of the final plat by the County Engineer shall constitute County approval of the plat for recordation. The plat shall contain the approval and signature block for the of Engineer in the form prescribed in the Land Development Forms Manual. Upon approval of the plat, the County Engineer shall present the plat to the Clerk of the Circuit Court for recording.

e. **Certification of title.** The title sheet of the plat shall contain a title certificatior.. The title certification must be an opinion of an attorney-at-law licensed in Florida, or the certification of an abstractor or a title insurance company licensed in Florida, and shall state that:

(1) The lands as described and shown on the plat are in the name, and apparent record title is held by the person, persons or organizations executing the dedication;
(2) All taxes have been paid on said lands as required by Chapter 197.192, Fla. Stat., as amended;
(3) All mortgages on the land are shown and indicates by their official record book and page number; and
(4) There are no encumbrances of record on said lands that would prohibit the creation of the proposed subdivision.

The form for the title certification shall be as prescribed in the Land Development Forms Manual.

f. **Preparing Surveyor.** The name and address of the natural person who prepared the plat shall be shown on the plat as required by Sec. 695.24, Fla. Stat., as amended, in the form prescribed in the Land Development Forms Manual.

[Ord. No. 93-4] [Ord. No. 94-9][Ord. No. 95-33]

C. **Special requirements for mobile home, recreational vehicle, and manufactured housing subdivisions.** Areas to be subdivided for the purpose of a mobile home, recreational vehicle or manufactured housing development shall also comply with this subsection. Except as to the lots indicated for other purposes, the dedications and reservations on the plat of a mobile home subdivision shall include the following additional provisions or wording equal thereto: "Said owner(s) hereby reserve(s) the lots shown on the plat exclusively for [mobile home, recreational vehicle, or manufactured housing], parking and uses incidental thereto, and, except as to these lots, mobile home or trailer parking is prohibited elsewhere." Areas indicated as parks or playgrounds are to be reserved for the use of the owners of the lots shown on the plat.

SEC. 8.21 REQUIRED IMPROVEMENTS.

A. **Minimum required improvements for all subdivisions.** Except when waived pursuant to Sec. 8.9.C, the improvements set out herein shall be the minimum required improvements for all subdivisions in order to provide the physical improvements necessary to implement certain performance standards, objectives and policies of the Capital Improvements Element and other elements of the Comprehensive Plan. These required improvements shall be installed prior to recordation of the corresponding plat or certified survey unless the developer furnishes a guaranty assuring their installation in accordance with the provisions of this article. Except as provided in this section, the cost of all required improvements shall be guaranteed.

1. **Access and circulation systems.** All streets and required sidewalks, and, when required under Sec. 8.22, parking areas shall be constructed by the developer in accordance with the design and construction requirements of Sec. 8.22. The guaranty for these requirements shall be as follows:

   a. The cost of installing all street improvements shall be guaranteed.

   b. The cost of installing parking areas need not be guaranteed since the plat establishes legal access and such areas are required to be installed prior to issuance of the Certificate of Occupancy.

   c. The cost of installing all sidewalks and paths pursuant to the approved pedestrian circulation system shall be guaranteed, except that the required guaranty may be waived by the County Engineer for portions of local streets abutting residential lots when the paving, grading and drainage plans contain a note, acceptable to the County Engineer, stating that such sidewalks or paths will be constructed concurrent with construction of the dwelling unit for such abutting lot. Installation of sidewalks and paths in streets abutting open space, common areas, recreation areas, water management tracts, and other areas which will not have a dwelling unit constructed thereon shall be guaranteed.

2. **Land preparation.** The developer shall grade and fill the land pursuant to Sec. 8.23.

3. **Stormwater management system.** The developer shall install the secondary and tertiary stormwater systems for the development in accordance with Sec. 8.24. On lots intended for building construction, the final grading of each lot, consistent with Sec. 8.24 or the applicable approved grading plan, shall be done in conjunction with and pursuant to the building permit for said construction.

4. **Wastewater system.** The developer shall install the required wastewater collection and/or disposal system for the development in accordance with Sec. 8.25.

5. **Potable water system.** The developer shall install the required potable water distribution system for the development in accordance with Sec. 8.26.

6. **Utilities.** The developer shall satisfy the requirements for underground installation of utility services and for utility site location, when applicable, of Sec. 8.27.

7. **Fire-rescue services.** The developer shall comply with the requirements of Sec. 8.28. The cost of installing the required hydrants may be included in the cost for the central water system.

8. **Subdivision design and survey requirements.** The developer shall install all required permanent control points in accordance with Sec. 8.29.F. When the permanent control points are to be installed after plat recordation, the cost of installing permanent control points shall be guaranteed.

B. **General design requirements.** The design of the required improvements shall be in accordance with acceptable engineering principles. The design and construction of required improvements shall, at a minimum, be in accordance with current County standards, including those contained in this article. Should the developer elect to provide improvements of a type or design proposed to equal or exceed the minimum requirements, standards for design and construction of such improvements shall be evaluated for adequacy on an individual basis. All such alternatives shall be submitted for approval by the County Engineer in accordance with Sec. 8.18.C.

C. **Parks and recreation.** The developer shall satisfy all applicable requirements for provision of parks, recreation areas, and recreational facilities to serve residents of a proposed subdivision in accordance with Sec. 17.1. The means of complying with said requirements shall be fully addressed on the Final Subdivision Plan.

SEC. 8.22 ACCESS AND CIRCULATION SYSTEMS.

A. **Vehicular circulation systems.**

1. **Required improvement to be constructed by developer.** All streets, required alleys, and related facilities required to serve the proposed development shall be constructed by the developer. Construction shall consist of, but not be limited to, grading, base preparation, surface course, and drainage. All streets, whether intended for dedication to the Board of County Commissioners or reservation for private use and maintenance, shall be constructed to the minimum standards established by this article and the County standards. Additionally, the developer shall construct any parking tracts which provide access to any clustered lots that do not have direct, primary access from a local street or residential access street. Construction of such parking tracts shall be completed prior to issuance of any Certificate of Occupancy for any dwelling unit located on a clustered lot served by such parking tract. Construction of the parking tract may be done in conjunction with building construction on the lot the tract is to serve provided, however, that such construction shall be noted on the approved paving, grading and drainage plans in a form acceptable to the County Engineer. When the parking tract is to be completed in conjunction with building construction, the developer shall execute a certificate of compliance on a form approved by the Building Director prior to issuance of the certificate of occupancy for any dwelling unit or building served by such parking tract. Said certificate of compliance shall state that the parking tract was completed in accordance with the requirements of Sec. 7.2.

2. **Minimum legal access requirement.** There is hereby established a hierarchy of legal access as shown on Chart 8.22-1. Except as provided below, each lot shall abut a street of suitable classification to provide said lot with legal access consistent with the standards set forth in Chart 8.22-2.

   a. When legal access to a lot is permitted by this Code to be by a common parking area which serves more than one (1) lot, it shall be dimensioned and depicted on the construction plans and reserved on the plat as a "parking tract". Said tract shall be reserved for parking and access purposes to the property owners association having jurisdiction over the parking area and the abutting lots.

   b. A common driveway may, with prior approval by the County Engineer, be utilized for legal access to a group of not more than four (4) abutting lots situated adjacent to a curve on a residential access street where said lots would otherwise have no reasonable means of obtaining direct access to or required frontage on the adjacent residential access street. Said driveway shall be delineated and reserved on the applicable plat for purposes of perpetual access to the lots served.

   c. A common parking lot may be utilized for legal access to individual lots created by subdivision of a shopping center or similar building site developed solely for commercial or industrial uses where all lots within the boundary of such subdivision are served by said access and are subject to recorded shared access, maintenance, and use covenants approved by the County Attorney pursuant to Sec. 7.15. Where such access is utilized, direct lot access on any street adjacent to the boundary of the subdivision shall be prohibited except at common access points approved for the subdivision as a whole.

3. **General design considerations.** The proposed street layout shall be integrated with the County's traffic circulation network, and shall be coordinated with the street system of the surrounding area. Streets shall be classified and designed in accordance with the Traffic Circulation Element of the Comprehensive Plan, Chart 8.22-2, and the County standards. Consideration shall be given to:

   a. The need for continuity of existing and planned streets;

   b. Barriers imposed by topographical conditions and their effect on public convenience or safety;

   c. The proposed use of the land to be served by such streets;

   d. The need for continuation of existing local streets in adjoining areas not subdivided;

   e. The proper projection of non-plan collector and plan collector streets;

   f. The feasibility of extending the proposed street system to the boundary of the proposed subdivision to promote reasonable development of adjacent lands and to provide continuity of street systems; and

   g. Discouraging through traffic in the design of local and residential access streets.

4. **Double frontage lots.** Where a lot has two frontage lines, legal access to the lot shall be restricted as follows.

a. **Residential lots.** Where a lot abuts both a street of non-plan collector or higher classification and a local street, access to said lot shall be by the local street. The lot line(s) abutting any street of higher classification than a local street shall be buffered in accordance with the provisions of Sec. 8.29.B.

b. **Non-residential lots.** Where a lot abuts streets of local or higher classification, access to the lot shall be by the street of lower classification, unless otherwise permitted by this Code; provided, however, that access shall not be permitted on a local residential or residential access street as prescribed on Chart 8.22-2.

5. **Construction in muck or clay areas.** Construction in muck or clay areas shall be done in accordance with the County Standards.

6. **Street intersections and street jogs.** The centerline intersections of local or residential access streets with non-plan or plan collector streets shall be spaced a minimum distance of two hundred (200) feet, as measured along the centerline of the collector street. Intersections which warrant traffic signalization shall be spaced a minimum distance of thirteen hundred twenty (1320) feet, centerline to centerline. Connection of local streets to arterial streets may be permitted by the County Engineer only where other access is unavailable. Local street jogs with centerline offsets of less than one hundred twenty-five (125) feet are prohibited.

7. **Through and local traffic.** Through traffic shall be directed along non-plan collector streets within the subdivision. Local streets shall be laid out to accommodate local or neighborhood traffic and to discourage their use by through traffic.

8. **Railroads in or abutting subdivisions.** When a subdivision borders on or contains a railroad right of way, a street approximately parallel to and on each side of such right of way may be required at a distance suitable for an appropriate use of the intervening land.

9. **Alleys.** Alleys may be allowed in subdivisions when they are necessary, in the opinion of the County Engineer, for the safe and convenient movement of traffic and pedestrians. Alley intersections and sharp changes in alignment shall be avoided and alleys shall be constructed in accordance with the following:

   a. **Residential areas.** Alleys shall be paved ten (10) feet wide in a minimum twelve (12) foot right-of-way, with appropriate radii for the intended use.

   b. **Commercial and Industrial areas.** Alleys shall be paved eighteen (18) feet wide in a minimum twenty (20) foot right-of-way, with appropriate radii for the intended use.

10. **Bridges and culverts.** Bridges or culverts shall be provided as necessary to facilitate the proposed vehicle and pedestrian system. The bridge or culvert requirement is subject to approval by the agency having jurisdiction over the facility being crossed. Bridges shall be designed in general accord with the current Department of Transportation practices and shall include planning for utility installation. They shall be reinforced concrete, unless other low maintenance materials are approved by the County Engineer. Bridges shall have a clear roadway width between curbs two (2) feet in excess of the pavement width in each direction, and shall have sidewalks four (4) feet wide on each side. All bridge structures shall be designed for H-20-S16-44 loading, incorporating adequate corrosion protection for all metal work and erosion protection for associated shorelines and embankments.

11. **Street markers.** Street markers shall be provided at each intersection in the type, size and location required by the current County Standards. Street name signs shall carry the street name shown on the plat of record and shall be in compliance with the current County standards.

12. **Traffic control devices.** The developer shall install traffic control devices and, where warranted, traffic signals on roads within and interfacing with the subdivision. A traffic impact analysis meeting the approval of the County Engineer shall be used to assist in establishing the need for such signals.

    a. **Pavement markings and/or lane delineators.** Pavement markings and/or lane delineators meeting the requirements of Palm Beach County shall be installed on all arterial and collector streets. Pavement markings and/or delineators may be required on other streets such as project entrances, as determined by the County Engineer.

    b. **Design.** The design of traffic control devices shall be in accordance with the Manual for Uniform Traffic Control Devices and applicable Palm Beach County Standards.

13. **Pavement widths.** Pavement widths for streets shall be in accordance with Chart 8.22-2.

14. **Dead-end streets.** Dead-end streets shall be designed and constructed with an appropriate terminal turnaround in accordance with the County Standards. Dead-end streets shall not exceed one thousand three hundred twenty (1320) feet in length except where natural geographic barriers exist necessitating a greater length.

15. **Materials and construction.** Pavement construction shall consist of, at a minimum, a subgrade, base and wearing surface. All materials and construction shall be in accordance with the current County standards.

16. **Shoulders.** All unpaved shoulders shall be constructed and grassed in accordance with the County standards. Grassing, with seed and mulch or with solid sod, as required, shall be completed prior to acknowledgement of completion of the required improvements by the County Engineer. No time extensions to any contract for the construction of required improvement will be granted on the basis of incomplete shoulder treatment.

17. **Street grades.** The longitudinal grade of street pavement shall be parallel to the design invert slope of the adjacent roadside drainage swale or gutter. Minimum longitudinal and transverse grades shall be in accordance with County standards. Street grades shall be shown on the construction plans by indicating the direction and percent of slope. The horizontal distance along the centerline between, and pavement elevation at all points of vertical intersection shall also be shown.

18. **Non-conforming streets.** Streets which do not meet the design and constructions standards of this article and the County Standards shall not be permitted except where satisfactory assurance for dedication of the remaining part of the street or reconstruction of the street in accordance with current standards is provided. Whenever a tract to be subdivided abuts an existing partial street, the other part of the street may be required to be dedicated and constructed within such tract. A proposed subdivision that includes an existing street which does not conform to the minimum street width requirements of these regulations shall provide for the dedication of additional land for such street along either one or both sides of said street so that the minimum cross-section dimension requirements of these regulations can be met. The County shall not accept non-conforming streets for ownership or maintenance through the procedures established by this article.

19. **Limited access easements.** Limited access easements shall be required along all non-plan collector streets and all major streets in order to control access to such streets from abutting property. Easements for controlling access to local and residential access streets may be required by the County Engineer in order to ensure continued control of access to such streets from abutting property. All limited access easements shall be conveyed or dedicated to the County.

20. **Street names.** Proposed streets which are in alignment with existing named streets should bear the name of the existing street. All street names shall have a suffix and in no case, except as indicated in the preceding sentence, should the name of the proposed street duplicate or be phonetically similar to existing street names. All proposed street names shall be submitted to the Executive Director of the Planning, Zoning and Building Department for approval prior to submittal of the Final Subdivision Plan application.

21. **Alignment, tangent, deflection, radii.** Streets shall be laid out to intersect as nearly as possible at right angles. Multiple intersections involving the junction of more than two (2) streets shall be prohibited. The point of curvature of any local street or residential access street shall not be closer than one hundred (100) feet to any intersection, measured along the centerline from the extension of the intersecting street lines. Reverse curves shall be prohibited. Reversals in alignment shall be connected by a straight tangent segment at least fifty (50) feet in length. All intersections shall be designed to provide at least the minimum stopping and turning sight distances, in accordance with criteria prescribed in the most recent edition of the FDOT Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways. When the centerline of a local street deflects by more than ten (10) degrees, it shall be curved with a radius adequate to assure safe sight distance and driver comfort. Street pavement return radii shall be a minimum of thirty (30) feet.

22. **Street lighting.** If street lighting is installed it shall be maintained by a property owners' association and said association should not be created exclusively for the purpose of maintaining street lighting. Unless street lighting installation conforms to the standards of the requisite utility company, street lights shall be placed outside of rights of way, road tracts, or any other areas designated for road purposes. Streets lighting shall be wired for underground service except where aerial service is permitted pursuant to Sec. 8.7.C or Sec. 8.27.C.

23. **Median strips.** Median strips which are part of a public street may not be utilized for any purpose other than by the County or public utility. However a developer or property owner may install landscaping in a median strip or within shoulders in accordance with Sec. 7.3.I and permitting requirements as established by the County Engineer pursuant to Palm Beach County Ord. 76-2, as amended. Median strips shall not be developed solely for the purpose of creating decorative entrances to subdivisions served by public streets.

24. **Subdivision entranceways.** Subdivision entranceways consisting of walls, fences, gates, rock piles or other entrance features are not permitted within the median strip or other areas in a public street. Decorative entranceways must be constructed upon plots of land adjacent to a public street in compliance with applicable County codes and placed so as not to constitute a traffic hazard.

25. **Guardhouses.** A guardhouse, located so as not to create a traffic hazard, may be constructed in the median of an entrance to a subdivision having only private streets. The minimum setback to a guardhouse shall be one hundred fifty (150) feet, measured from the extension of the intersecting street lines, unless waived by the County Engineer. Two (2) lanes shall be required on each side of the median in the area of the guardhouse.

CHART 8.22-1

CHART OF ACCESS HIERARCHY

MAJOR STREETS: Streets which constitute the traffic circulation network as contemplated under the Comprehensive Plan. Listed from highest to lowest category:

EXPRESSWAY

ARTERIAL

PLAN COLLECTOR

MINOR STREETS: Streets which constitute the internal circulation network of a development and which are not classified as a MAJOR STREET. Listed from highest to lowest category.

NON-PLAN COLLECTOR

MARGINAL ACCESS

LOCAL

RESIDENTIAL ACCESS (private streets only):

40 FOOT

32 FOOT

ALLEY (secondary access only)

CHART 8.22-2
CHART OF MINOR STREETS

	MINIMUM WIDTH (FT.)	MAXIMUM ALLOWABLE		ALLOWED AS LEGAL ACCESS FOR[a]:	
CLASSIFICATION	STREET[b]	PAVEMENT[c]	ADT[d]	COMMERCIAL	RESIDENTIAL
NON-PLAN COLLECTOR	80	24	13,100	x	
MARGINAL ACCESS	50	24	N/A	x	x
LOCAL RESIDENTIAL[e]					
CURB & GUTTERS	50	20	1,500		x
SWALES 60	20	1,500			x
LOCAL COMMERCIAL	80	24	1,500	x	x
RESIDENTIAL ACCESS[f]					
ONE SIDEWALK	40	20	800		x
NO SIDEWALK [Ord. No. 93-4]	32	20	150		x

[a]An "x" under the commercial or residential column indicates the corresponding street classification is allowed as legal access.

[b]Street width refers to standard right-of-way or private street tract width.

[c]Pavement width represents two (2) travel lanes of equal width and does not include the additional width of paved shoulder where required.

[d]Dead end streets of all classifications shall not exceed 1,320 feet in length unless otherwise approved by the County Engineer.

[e]Streets within a rural subdivision shall be at least 60 feet wide when they are to be constructed without a wearing surface.

[f]Use is restricted to private streets providing access to townhouse and zero lot line units within a Planned Development District.

B. **Pedestrian circulation system.**

1. **Requirement for sidewalks.** Except as provided in this section, sidewalks shall be constructed on both sides of all streets. For marginal access streets and streets with a width of less than fifty (50) feet and greater than thirty-two (32) feet, a sidewalk on one side is required. No sidewalk is required in streets with a width of thirty-two (32) feet or less. Required sidewalks shall be constructed by the Developer except as provided in Sec. ?.

2. **Master pedestrian circulation plan; waiver of requirement.** The Development Review Committee may approve a Master Pedestrian Circulation Plan and, upon such approval, may waive, in whole or in part, the requirement for sidewalks within the street of a subdivision, or portion thereof, where it finds that the alternative pedestrian circulation system provides accessibility, convenience, continuity and safety equivalent to or greater than that which would be provided by the required sidewalks. The Master Pedestrian Circulation Plan shall be submitted by the developer for approval concurrently with, and shall be considered part of the approved Final Subdivision Plan.

   a. **Requirements for Master Pedestrian Circulation Plan.** An application, the required fee, and the required number of copies of a Master Pedestrian Circulation Plan shall be submitted in accordance with Sec. 5.6. for placement on the agenda of the Development Review Committee. The Master Pedestrian Circulation Plan shall be a full-sized reproducible copy of the approved Final Subdivision Plan, and shall be modified, when necessary, to show:

      (1) The location of all lots and the number and type of dwelling units on each lot;
      (2) The classification and width of each street;
      (3) The location, width, and type of each pedestrian path, including those sidewalks and bicycle paths to be constructed within the streets; and
      (4) Locations of all connections to pedestrian systems outside the development.

   b. **Distribution of approved plan.** Upon approval of a Master Pedestrian Circulation Plan, a copy of the approved plan shall be forwarded to the County Engineer, Zoning Director, Building Director, and Metropolitan Planning Organization.

3. **Maintenance responsibility of sidewalks and paths.** The control, jurisdiction and maintenance obligation of paths not located wholly within a street and of sidewalks within private streets shall be placed with a property owners association or an improvement district. Where such control and maintenance obligation is to be placed with an improvement district, the district shall expressly accept said obligation upon the plat or by a separate instrument filed in the Public Records.

C. **Reduction of street width.** When pedestrian circulation is to be accomplished solely by paths constructed outside the streets, the Development Review Committee may approve a concurrent request by the developer to reduce local street widths from those required pursuant to Sec. 8.22.A.2 by no more than eight (8) feet if such reduction would neither reduce the vehicular carrying capacity and safety of the streets nor compromise the safety of pedestrians.

D. Crosswalks. When the block length exceeds nine hundred (900) feet, crosswalks between streets may be required where deemed essential by the County Engineer to provide convenient pedestrian circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.
[Ord. No. 93-4] [Ord. No. 94-9]

SEC. 8.23 CLEARING, EARTHWORK, AND GRADING.

A. Minimum required improvement. The Developer shall be required to clear all rights-of-way and to make all grades for streets, parking tracts, lots, and other areas proposed to be developed, compatible with on-site tertiary drainage patterns established by the approved drainage design.

B. Unsuitable materials. The Developer shall remove and replace unsuitable materials, as determined pursuant to Sec. 8.3.E and 8.16.F. Replacement of unsuitable materials within streets and proposed public areas shall be satisfactory to and meet with the approval of the County Engineer, who shall require such soil tests of the backfill and the underlying strata at the cost of the developer as may be deemed necessary to ascertain the extent of required removal, suitability of replacement material, and acceptability of the proposed method of placement.

SEC. 8.24 STORMWATER MANAGEMENT.

A. Minimum required improvement. The following shall be the minimum required improvement for all developments to implement the level of service under the Drainage and Capital Improvements Elements of the Comprehensive Plan.

1. A complete, fully functional tertiary stormwater drainage system, including necessary lot grading, ditches, canals, swales, storm sewers, drain inlets, manholes, headwalls, endwalls, culverts, and other appurtenances, shall be required for the positive drainage of storm water runoff in conformance with the approved drainage plans.

2. A complete and fully functional secondary stormwater system shall be required in conformance with the approved stormwater management plan.

3. A means to convey all stormwater discharge from the development site to at least one (1) point of legal positive outfall shall be provided as an integral part of the required stormwater management system, including construction of all necessary conveyance facilities and establishment of appropriate easements for operation and maintenance of said off-site facilities.

4. Adequate physical and legal means shall be provided to ensure the continued conveyance of all pre-development flow of surface waters into or through the development site from adjacent lands. Unless otherwise specified by ordinance, regulation, or condition of development approval, such conveyance may be accomplished by incorporating the inflow into the on-site stormwater management system or diverting the inflow to its pre-development location of outflow from the development site, including construction of all necessary conveyance facilities and establishment of appropriate easements to accommodate said inflow.

5. All facilities necessary to meet requirements for stormwater treatment, off-site discharge control, and conveyance of existing inflows applicable to that portion of the site under

construction must be in place and operational at the time of commencement of construction of required improvements , and shall be maintained by the developer until such time that all required improvements are acknowledged as complete.

B. **General criteria.** Secondary and tertiary stormwater facilities for each subdivision, and for each lot, street, and other development site within the subdivision, shall be designed and constructed so as to:

1. Prevent flooding and inundation to a degree consistent with levels of protection adopted by the Comprehensive Plan for buildings, streets, lots, parking areas, recreational areas, and open space;

2. Maintain stormwater runoff rates at levels compatible with safe conveyance and/or storage capacities of drainage facilities and established legal limits applicable to receiving waters at the point of discharge;

3. Mitigate degradation of water quality and contravention of applicable state water quality standards in surface and groundwaters receiving stormwater runoff;

4. Provide facilities for conveyance to legal positive outfall of all allowable discharges of stormwater runoff from each development site without causing or contributing to inundation of adjacent lands;

5. Provide for continued conveyance of pre-development stormwater runoff and surface waters that flow into or through the development site from adjacent lands;

6. Provide for long-term, low maintenance, low cost operation by normal operating and maintenance methods;

7. Provide for necessary maintenance of the pre-development range of groundwater levels to prevent adverse impacts on land uses and water resources of the development site and adjacent lands; and

8. Promote percolation, recharge, and reuse of stormwater.

C. **Hydrologic design data.** Unless otherwise specified by a particular design or performance standard, or approved by the County Engineer based on justification submitted by the developer's engineer for an individual case, hydraulic and hydrologic data used in design of stormwater management facilities shall be based on:

1. Rainfall intensity-duration-frequency curves for FDOT-Zone 10;

2. Rainfall hyetographs of 24-hour total rainfall as published in South Florida Water Management District - Management and Storage of Surface Waters Permit Information Manual -Volume IV;

3. Rainfall quantity (or intensity) vs. time distributions in accordance with those published by SFWMD or FDOT, or the SCS - Type II (South Florida Modified) distribution;

4. Post-development runoff characteristics, such as slopes, available soil storage, runoff coefficients, ground cover, channelization, and overland flow routing, applicable to the development site and contributory off-site areas after complete development has occurred;

5. Maximum operating tailwater elevations at the outlet of each conveyance or discharge facility, determined as the maximum hourly average receiving water surface elevation resulting from a 24-hour duration rainfall with a return period equal to that of the design storm applicable to the facility, or as otherwise established by the agency having operational jurisdiction over the receiving water elevation.

D. **Design flood elevation determination.** Unless otherwise specified by a particular design or performance standard, the 100-year flood elevation applicable to a development site shall be determined as the highest of:

1. The base flood elevation specified for the area of development located within zones designated A, AH, or A1-30 as delineated on the appropriate Federal Flood Insurance Rate Map (FIRM);

2. The wind or current driven wave elevation specified for the area of development located within zones designated V1-V30 as delineated on the appropriate FIRM;

3. The inundation elevation obtained by adding the depth of shallow flooding to the area-weighted mean pre-development elevation of the area of development located within zones designated A0 as delineated on the appropriate FIRM;

4. The 100-year inundation elevation established by SFWMD within specific sub-areas of the C-51 Canal and C-18 Canal watersheds pursuant to Chapter 40E-41, F.A.C.; or

5. Where not otherwise established by Chapter 40E-41, F.A.C., or by a County drainage plan adopted pursuant to the Comprehensive Plan, the maximum inundation elevation resulting from the total on-site storage of runoff produced by the 100-year, 3-day rainfall event assuming fully developed site conditions and no discharge of surface water from the development site.

E. **Tertiary stormwater system design and performance.** The tertiary system shall consist of all drainage features and facilities such as storm sewerage, swales, gutters, culverts, ditches, erosion protection, and site grading necessary for the immediate drainage and rapid removal of stormwater from building sites, streets, and areas of other land uses subject to damage or disruption by inundation in accordance with acceptable levels of service as established by the Comprehensive Plan.

1. **Lot and building site drainage.** In order to provide for such levels of service, tertiary drainage for lots and buildings shall meet the following minimum requirements:

a. The minimum finished floor elevation of the principal building(s) to be constructed on a lot or portion thereof shall be at or above the 100-year flood elevation applicable to the building site.

b. Site grading immediately adjacent to the perimeter of each building shall be sloped so as to drain away from the structure.

c. Each single family residential lot shall be graded to drain along or within its property lines to the street or parking area providing immediate access, unless adequate common drainage facilities in expressed drainage easements with an established maintenance entity are provided to accommodate alternative drainage grading.

d. Each residential lot with gross area of one-quarter acre or less shall have a finished grade not lower than the maximum water surface elevation produced by the 3-year, 24-hour rainfall event in any detention or retention facility receiving stormwater runoff from the lot.

e. Each residential lot with a gross area greater than one-quarter acre shall have a finished grade as specified in Sec. 8.24.E.1.d within twenty (20) feet of any principal building site. The remainder of the lot shall be graded at sufficient elevation to ensure that inundation does not persist for more than eight (8) hours following cessation of the 3-year, 24-hour rainfall event, unless such area is designated for stormwater management purposes and included in an expressed easement for drainage, floodplain, or the like.

2. **Minor street drainage.** Except as provided in Sec. 8.24.E.3, minor streets shall have tertiary drainage meeting or exceeding the following minimum requirements.

a. The minimum edge of pavement elevation of any street segment shall be no lower than two (2) feet above the control elevation of any detention or retention facility receiving runoff from that segment.

b. Roadside swales shall conform to applicable County standards and shall be designed and constructed such that:

(1) The flowline gradient is at least 0.30%, but not greater than 2.5% unless approved erosion protection is provided;
(2) The flowline gradient is equal to or slightly exceeds the longitudinal gradient of adjacent pavement;
(3) The water surface elevation of swale flow resulting from peak runoff based on the 3-year rainfall event shall not exceed the adjacent edge of pavement at any point along the swale run. However, at least one storm sewer inlet or other acceptable discharge facility shall be provided for every six hundred (600) linear feet of swale, and no single swale run shall exceed four hundred (400) feet to an inlet; and
(4) The soil adjacent to each inlet is protected from local scour by installation of a four (4) foot wide perimeter apron of sod or concrete.

c. Curb and gutter drainage shall conform to applicable County standards and shall be designed and constructed such that:

(1) The flowline gradient is at least 0.20%;
(2) The water surface elevation of flow resulting from peak runoff based on the 3-year rainfall event shall not exceed the adjacent centerline elevation of pavement at any point. However, at least one storm sewer inlet or other acceptable discharge facility shall be provided for every six hundred (600) linear feet of pavement, and no single gutter run shall exceed four hundred (400) feet to an inlet; and
(3) Surface flow of runoff across street intersections is prevented by provision of corner inlets and cross drains or by grading of gutters to flow away from the intersection.

3. **Non-Plan collector street drainage.** Non-Plan collector streets shall have tertiary drainage meeting all appropriate requirements for minor streets except that:

a. Conveyance capacity of road drainage facilities shall be based on peak runoff resulting from the 5-year rainfall event; and

b. The water surface elevation of gutter flow resulting from peak runoff based on the 5-year rainfall event shall not exceed the adjacent centerline elevation of the outermost travel lane at any point.

4. **Parking tract and parking area drainage.** Each residential parking area serving three or more dwelling units and all non-residential parking areas shall have a finished grade elevation not lower than the maximum water surface elevation produced by the 3-year, 24-hour rainfall event in any retention, detention, or conveyance facility receiving stormwater runoff from the lot. However, where detention or retention is provided by subsurface exfiltration systems the finished grade shall be no lower than the maximum storage elevation produced by the 5-year, 24-hour event.

5. **Storm sewerage.** Storm sewerage shall be designed and constructed so as to meet or exceed the following requirements:

a. Where not otherwise specified, all storm sewer system capacity design shall, at a minimum, provide for conveyance of peak inflow from the applicable catchment, based on the 3-year rainfall event, such that the hydraulic gradient elevation does not exceed the grate or cover elevation at any inlet or manhole under tailwater conditions pursuant to Sec. 8.24.C.5.

b. Inlet times assumed for determining required street drainage system capacity shall not exceed ten (10) minutes, unless adequate justification for use of longer times is submitted.

c. Storm sewer pipe shall have a nominal diameter of not less than fifteen (15) inches, or equivalent oval pipe size.

d. Storm sewerage shall be designed to attain design flow velocities of not less than two and one half (2.5) feet per second in all pipe runs serving two (2) or more inlets, nor greater than ten (10) feet per second in any pipe run.

e. A suitable access structure such as a manhole, junction box, or inlet must be installed at each junction or change in pipe size slope, or direction.

f. The maximum pipe run between access structures shall be:

300 ft . for 15" and 18" pipe
400 ft. for 24" - 36" pipe
500 ft. for 42" and larger pipe.

g. All pipe used in the storm sewer system shall be either reinforced concrete or metal, covered by and conforming to current ASTM, AASHTO, or ANSI standard specifications for materials and fabrication of barrel and joints, and shall meet current FDOT standard specifications and policies applicable to the intended use.

h. Concrete pipe shall have gasket joints.

i. When metal pipe is used beneath pavement within a street, it shall be designed to provide a joint-free installation or, where joint-free installations are not feasible, shall be jointed with a twelve-inch wide band having a mastic or neoprene gasket providing a watertight joint. Other jointing techniques meeting or exceeding these requirements may be used upon submittal to and approval by the County Engineer.

j. Drainage pipe shall be fitted with headwalls, endwalls, inlets and other appropriate terminating and intermediate structures. Structure design shall meet or exceed County standards.

F. Secondary stormwater system design and performance. The secondary system, including all facilities and appurtenant structures for detention, retention, discharge, and conveyance to legal positive outfall, shall be designed and constructed to provide the degree of treatment and control of all stormwater runoff discharged from a development site necessary to meet the requirements of the agency having jurisdiction over receiving waters at each point of legal positive outfall.

1. In addition to requirements expressly stated herein:

a. Secondary facilities for development subject to permitting by individual or general permit from South Florida Water Management District pursuant to Chapters 40E-4, 40E-40, or 40E-41, F.A.C., shall meet all requirements for issuance of the applicable permit; and

b. Secondary facilities for each residential, commercial, and industrial development exempt from South Florida Water Management District permitting pursuant to

Chapter 40E-4, F.A.C., except an individual residential lot containing not more than two (2) dwelling units, shall be designed and constructed on site, or otherwise be provided through authorized connection to off-site secondary facilities, so as to limit the discharge rate at the point of legal positive outfall to not more than the peak runoff rate produced by the site under pre-development conditions for both the 3-year, 1-hour and the 25-year, 72-hour rainfall events,and either:

(1) Detain the greater of the first one (1) inch of runoff or the total runoff from the 3-year, 1-hour rainfall event; or

(2) Retain the initial portion of runoff in an amount equal to one-half of that required to be detained.

2. No discharge of stormwater runoff resulting from rainfall up to and including the 25-year, 72-hour event shall take place from a development site except by means of one or more approved discharge structures, other than those existing inflows from off-site for which separate, approved means of conveyance through the site have been provided.

3. Facilities for conveyance of discharge to each point of legal positive outfall shall be designed and constructed with adequate capacity to accommodate the combined flow from the applicable discharge structure(s) and all inflows from other contributory areas resulting from the 25-year, 72-hour rainfall event without overflow to adjacent lands.

4. Except where bulkheading is approved in accordance with Sec. 7.6, each wet detention/retention facility designed for storage of stormwater runoff in an open impoundment shall have:

a. Side slopes no steeper than 4(H):1(V) extending to a depth of at least two (2) feet below the design control elevation;

b. Side slopes no steeper than 2(H):1(V) from two (2) feet below control elevation to the bottom of the facility; and

c. A continuous berm, at least twenty (20) feet wide with a cross-slope no steeper than 8 (H): 1 (V), graded adjacent to the shoreline. Where said berm abuts any residential lot, it shall be graded at an elevation not lower than the maximum design water surface elevation resulting from the 3-year, 24-hour rainfall event. Along portions of the impoundment where the design water surface is less than forty (40) feet wide at control elevation a berm shall be required on only one side, provided that adequate legal and physical access is established from a minor street to each separate segment of the remaining berm.

5. Dry detention/retention facilities designed for storage in open impoundments shall have side slopes no steeper than 4(H):1(V).

6. All normally exposed side slopes and maintenance berms of open impoundments shall be fully grassed or otherwise protected from erosion.

7. Each piped inlet to an open impoundment shall have a concrete or sand-cement rip-rap endwall designed and constructed with suitable foundation for installation on the slope or bed of the impoundment as applicable. However, the endwall may be eliminated on inlets to wet detention impoundments where the pipe is installed with the crown at least two (2) feet below the control elevation and with the pipe invert protruding at least two (2) feet beyond the side slope.

8. Stormwater runoff from pavement, roofs, and unpaved areas of compacted soil surfaces with no significant vegetative cover shall be directed over grassed, pervious soil surfaces as diffused flow prior to entering wet detention/retention facilities or dry detention facilities in order to promote infiltration, particulate deposition, nutrient removal, and interception of debris or other undesirable materials which may overload, pass through, cause nuisance conditions in, or increase maintenance needs of said facilities.

9. In order to protect against overdrainage of surrounding lands, no control elevation shall be lower than the pre-development average annual mean water table elevation of the detention facility site.

G. **Drainage and maintenance access rights.**

1. Each secondary system facility for detention or retention of stormwater runoff in an open impoundment shall be placed entirely within a water management tract dedicated or deeded to an acceptable entity responsible for operation and maintenance of the stormwater management system.

2. Except as otherwise provided pursuant to this article, there is hereby required around each water management tract established for purposes of wet detention or retention in an open impoundment a lake maintenance easement a minimum of twenty (20) feet in width and graded at a slope no steeper than 8 (H):1 (V), coinciding with the required maintenance berm. The width of the easement shall be measured from the point at which the grade is not steeper than 8 (H):1 (V). Lake maintenance from an abutting local street may be permitted by the County Engineer in accordance with good engineering practices. Access to a lake maintenance easement from at least one (1) local street shall be established as part of said easement or, when necessary, by separate expressed easement or other instrument of record. A lake maintenance easement shall be required on only one (1) side of the water body or water management tract where the water surface at control elevation does not exceed forty (40) feet in width; provided, however, that elimination of said easement does not isolate any remaining lake maintenance easement from proper access. If the water surface at the control elevation is greater than forty (40) feet wide, a lake maintenance easement shall be required on both sides. No lake maintenance easement shall be required behind bulkheads; provided, however, an easement not less than ten (10) feet in width shall be provided behind bulkheads where necessary to provide access to outfalls and, further, that elimination of said portion of lake maintenance easement does not result in isolating any remaining lake maintenance easement from required access. In residential subdivision, lake maintenance easements, including required access, shall be established over common areas only, and shall not encroach residential lots.

3. **Drainage easements.** Drainage easements shall be provided where necessary at a width adequate to accommodate the drainage facilities. A minimum width of twelve (12) feet shall be provided for underground storm drainage installations. Where swales are used, the width shall be adequate to accommodate the entire design section between tops of slope. Where canals or ditches are permitted, the width shall be adequate to accommodate drainage facilities plus twenty (20) feet on one side for maintenance purposes. Drainage easements shall be provided to accommodate existing drainage of surface waters from off-site contributory areas. When a subdivision is traversed by existing canals, watercourses, streams, drainage ways or channels, there shall be provided a drainage easement or right-of-way conforming substantially with the lines of such watercourse and of such further width or construction or both as will be adequate for access, maintenance, and floodplain purposes.

H. **Certificate of compliance for lots.** When the finished lot grading required by Secs. ? and 8.24.E.4 is to be completed in conjunction with building construction, prior to issuance of the Certificate of Occupancy the developer shall submit to the Building Director a Certificate of Compliance from a Florida registered professional surveyor, engineer, or landscape architect. Such statement shall be in a form approved by the Building Department and shall state that lot grading was done in accordance with either the approved grading plan for the subdivision or, in the absence of such plan, in accordance with the applicable requirements of Secs. ? and 8.24.E.4.

SEC. 8.25 WASTEWATER SYSTEMS.

A. **General requirement.** Except in rural subdivisions, a sewage collection/transmission system with appropriate service connection to each lot shall be provided for connection to a central sewer system. Such system shall be designed and installed in accordance with the Department of Environmental Regulation (DER) requirements, applicable permits or approvals obtained from the utility responsible for the central sewer system, and the appropriate permits secured from the PBCPHU.

B. **Package treatment plant (on-site).** In the absence of a central sewer system, use of a package treatment plant will be allowed only under the following circumstances:

1. The subdivision is located within the service area of a central sewer system and extension of service to the subdivision is in the utility's master plan;

2. The package treatment plant will be operated by the utility and abandoned upon extension of the central sewer system; and

3. Zoning approval is secured as required in Article 6 of this Code;

The package treatment plant must be designed and constructed in accordance with the requirements of DER and a permits secured from the PBCPHU.

C. **Individual system.** In rural subdivisions, a septic tank system is an acceptable method of sewage disposal for each lot, when permitted by the PBCPHU as per the standards prescribed in Sec. 16.1.

SEC. 8.26 POTABLE WATER SYSTEMS.

A. **General requirement.** Except in rural subdivisions, a potable water distribution system with appropriate service connection to each lot shall be provided for connection to a central water system. Such system shall be designed and installed in accordance with the Department of Environmental Regulation (DER) requirements, applicable permits or approvals obtained from the utility responsible for the central water system, and the appropriate permits secured from the PBCPHU.

B. **Package treatment plant (on-site).** In the absence of a central water system, use of a package treatment plant will be allowed only under the following circumstances:

1. The subdivision is located within the service area of a central water system and extension of service to the subdivision is in the utility's master plan;

2. The package treatment plant will be operated by the utility and abandoned upon extension of the central water system; and

3. Zoning approval is secured as required in Article 6 of this Code;

The package treatment plant must be designed and constructed in accordance with the requirements of DER and a permits secured from the PBCPHU.

C. **Individual system.** In rural subdivisions, or where otherwise allowed, an individual well system is an acceptable method of providing potable water for each lot, when permitted by the PBCPHU pursuant to the standards prescribed in Sec. 16.2.

SEC. 8.27 UTILITIES.

A. **Required improvement.** All utilities, including power and light, telephone and telegraph, cable television, wiring to street lights, and gas shall be installed underground, unless such requirement is waived by the County Engineer, as provided in this section. Utilities shall be constructed in easements as prescribed by this section. The developer shall make arrangements for utilities installation with each person furnishing utility service involved.

B. **Easements.** Utility easements twelve (12) feet wide shall be provided where necessary to accommodate all required utilities across lots and shall have convenient access for maintenance. Where possible easements shall be centered on lot lines. Where possible, utility easements should be provided for underground utilities across the portion(s) of the lot abutting a street or parking area. When a utility easement is to abut a street, the width may be reduced to ten (10) feet. Additional utility easements may be required by the County when, in the opinion of the County Engineer, such easements are necessary for continuity of utility service between subdivisions or other development and where necessary for maintenance and service. Utility easements and drainage easements shall not be combined. Where crossings occur, drainage easements shall take precedent. Easements shall be coordinated with requisite utility authorities and shall be provided as prescribed by this article for the installation of underground utilities or relocating existing facilities in conformance with the respective utility authority's rules and regulations.

C. **Exceptions to underground installation.**

1. **Applicability.** This section shall apply to all cables, conduits, or wires forming parts of an electrical distribution or communications system, including service lines to individual properties and main distribution feeder electrical lines delivering power to local distribution systems. This section shall not apply to wires, conduits or associated and supporting structures whose exclusive function is to transmit or distribute electricity between subdivisions, generating stations, substations and transmission lines of other utility systems, or perimeter lines located adjacent to a subdivision.

2. **Standard exception for appurtenant, on the ground facilities.** Appurtenances such as transformer boxes, pedestal mounted terminal boxes, meter cabinets, service terminals, telephone splice closures, pedestal type telephone terminals or other similar "on the ground" facilities normally used with and as a part of the underground distribution system may be placed above ground, but shall be located so as not to constitute a traffic hazard.

3. **Exceptions requiring approval of County Engineer.** All other proposals for above-ground installation of utilities shall be submitted to the County Engineer at the time of the preliminary submittal. Such request shall be made in writing and noted on the construction plans. The County Engineer shall, at the time of the preliminary review, consider the request and all pertinent information, including but not limited to the construction plans, existing installations, and other information the County Engineer deems necessary. Any approval or denial pursuant to this subsection shall be set forth in writing, which may be by separate statement to the developer and the developer's engineer or may be part of the County Engineer's response to the preliminary review.

4. **Convertability.** Any new service which, by virtue of an approved waiver granted pursuant to this section, is allowed to be supplied by overhead utilities shall be connected to a service panel that is convertible for underground utility service at a future date.

D. **Installation in streets.** After the subgrade for a street has been completed, and before any material is applied, all underground work for the water mains, sanitary sewers, storm sewers, gas mains, telephone, electrical power conduits and appurtenances and any other utility shall be installed completely through the width of the street to the sidewalk area or provisions made so that the street will not be disturbed for utility installation. All underground improvements installed for the purpose of future service connections shall be properly capped and backfilled.

SEC. 8.28 FIRE-RESCUE SERVICES.

A. **Required improvement.** Fire hydrants shall be provided where central water systems are provided. Fire hydrants shall be provided in the manner prescribed in this section.

B. **Single family developments of less than five (5) units per acre.** Fire hydrants shall be spaced no greater than six hundred (600) feet apart and not more than three hundred (300) feet to the center of any lot in the subdivision and shall be connected to mains no less than six (6) inches in diameter. The system shall provide capability for fire flow of at least seven hundred (700) gallons per minute in addition to a maximum day requirement at pressures of not less than twenty (20) pounds per square inch. The system shall have the capability of sufficient storage or emergency pumping facilities to such an extent that the minimum fire flow will be maintained for at least four (4) hours or the current recommendations of the insurance services office, whichever is greater.

C. **Multiple family developments of over five (5) dwelling units per acre, commercial, institutional, industrial or other high daytime or nighttime population density developments.** In these areas fire hydrants shall be spaced no greater than five hundred (500) feet apart and the remotest part of any structure shall not be more than three hundred (300) feet from the hydrant and shall be connected to mains no less than six (6) inches in diameter. Fire flow shall be provided at flows not less than 1200 gallons per minute in addition to a maximum day requirement at pressures of not less than thirty (30) pounds per square inch.

D. **Charges for use.** Charges made for the use of the fire hydrant or water consumed therefrom when a fire protection authority uses the fire hydrant in the performance of its official duty shall be as regulated by the Public Service Commission.

SEC. 8.29 SUBDIVISION DESIGN AND SURVEY REQUIREMENTS.

A. **Required improvement.** The Developer shall install the required buffering and, when recording a plat, shall comply with Sec. 8.29.F. for setting of "P.R.M.s" and "P.C.P.s."

B. **Buffering.** Residential developments shall be buffered and protected from adjacent expressways, arterials and railroad rights-of-way with a five (5) foot limited access easement, which shall be shown and dedicated on the plat, except where access is provided by means of a marginal access road or where such expressway, arterial or railroad right-of-way abuts a golf course.

C. **Blocks.**

1. **General considerations.** The length, width and shape of blocks shall be determined with due regard to:

   a. Provision of adequate building sites suitable to the special needs of the type of use contemplated;

   b. Zoning requirements as to lot size and dimensions;

   c. Need for convenient access, circulation, control and safety of vehicular and pedestrian traffic; and

   d. Limitations and opportunities of topography.

2. **Maximum length.** Block lengths shall not exceed one thousand three hundred twenty (1320) feet between intersecting streets. Provided, however, that greater lengths may be approved by the County Engineer on an individual basis after considering such factors as but not limited to, lot size, the ADT, number of through streets, street layout and other engineering considerations, in accordance with acceptable engineering practices.

D. **Lots.** All lots shall have the area, frontage, width, and depth required by this Code or applicable zoning approval for the prevailing or approved use zone wherein said lots are located.

1. **Existing structures.** When a subdivision is proposed upon land with existing structures that are proposed to be retained, lots are to be designed so as not to cause said existing structures to become nonconforming.

2. **Lots abutting major streets.** When lots are platted abutting a major street or non-Plan collector street, access shall be provided by and limited to local streets or residential access streets. No access from individual lots shall be permitted directly to a major street.

3. **Through lots.** Double frontage lots or through lots shall be avoided except where essential to provide separation of residential development from major streets or to overcome specific disadvantages of topography or orientation. Where double frontage lots are developed they shall be buffered as required by this Code.

E. **Minimum safe sight distance at intersections.** Corner lot lines at intersecting street lines shall be the long chord of a twenty-five (25) foot radius, except that at the intersection of two (2) Thoroughfare Plan streets the radius shall be forty (40) feet. Corner lots shall be designed to facilitate a safe intersection with respect to minimum stopping and turning sight distances in accordance with criteria prescribed in the most recent edition of the FDOT Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways. A restriction shall be placed on the plat prohibiting structures or landscaping over thirty (30) inches high within any additional safe sight area required to be established over an individual lot in order to accommodate unusual conditions in the design of the lot or alignment of adjacent streets, said height being measured from the street crown elevation at the intersection.

F. **Survey requirements.**

1. **Permanent Reference Monuments ("P.R.M.s").** Where monuments occur within street pavement areas, they shall be installed in a typical water valve cover as prescribed in the current County Standards.

2. **Permanent Control Points ("P.C.P.s").** Permanent control points shall be installed as follows:

a. **Installation prior to plat recordation.** Where required improvements are constructed prior to recordation, the permanent control points shall be set prior to submission of the Final Plat and certified by the surveyor in accordance with Sec. 8.20.B.15.c.

b. **Installation after plat recordation.** Where required improvements are constructed after recordation, the permanent control points shall be set under the guarantees as required by Sec. 8.21.A.8. In such case, the surveyor's certificate shall comply with Sec. 8.20.B.15. The signing surveyor shall provide the County Engineer with a copy of the recorded certification required by Chapter 177.091, Fla. Stat., as to his placement of the permanent control points.

SEC. 8.30 VARIANCES.

A variance from the literal or strict enforcement of the provisions of this ordinance may be granted by the Board of Adjustment in accordance with the provisions set forth in Sec. 5.7.

SEC. 8.31 STANDARD FORMS.

A. General. The forms and formats contained in the Land Development Forms Manual have been approved as standard by the County Attorney and the County Engineer, as appropriate. All specific agreements, guaranties, certifications, and other legal documents are subject to the approval of the County Attorney. Alternate form(s) may be approved for use pursuant to this article, provided the County Attorney has first approved such alternate form(s) in writing.

B. Dedications and reservations. Dedications and reservations shall be specified in accordance with the substantive requirements of Sec. 8.20.B.15, and shall be subject to approval by the County Attorney prior to plat recordation.

[Ord. No. 94-9; May 3, 1994] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-8; March 21, 1995]

ARTICLE 9.

ENVIRONMENTAL STANDARDS

TABLE OF CONTENTS

ARTICLE 9
ENVIRONMENTAL STANDARDS

SEC. 9.1. COASTAL PROTECTION 1
A. PURPOSE AND INTENT. 1
B. DEFINITIONS 1
1. Alteration or materially alter 1
2. Armoring 1
3. Artificial light source(s) 1
4. Beach 1
5. Beach access point 2
6. Beach cleaning 2
7. Beach compatible sand 2
8. Beach fill 2
9. Beachfront lighting 2
10. Board 2
11. Coastal Protection Zone 2
12. Coastal vegetation 2
13. Crest of the dune 2
14. Day 2
15. Dune 2
16. Dune profile 2
17. Egg 2
18. Emergency 2
19. ERM 3
20. Excavation 3
21. Ground-level barrier 3
22. Hatchling 3
23. Listed Species 3
24. Motor vehicle 3
25. Nest 3
26. Nesting season 3
27. Peak nesting season 3
28. Permitted agent of the State 3
29. Sand 3
30. Sand Preservation/Sea Turtle Protection Zone (SP/STPZ) 3
31. Sea turtle(s) 3
32. Seedling, sapling, runner, or sucker 3
33. Structure 4
34. Tinted glass 4
C. SHORT TITLE AND APPLICABILITY. 4
D. AUTHORITY 4

E. JURISDICTION 4
F. EXEMPTIONS 6
G. GENERAL PERMITS 7
H. CRITERIA FOR ISSUANCE OF A GENERAL PERMIT 8
I. PERMITS. 12
J. CRITERIA FOR ISSUANCE OF A PERMIT 15
K. MITIGATION. 18
1. General 18
2. When to Evaluate Mitigation Proposals 18
3. Standards for Mitigation 18
L. APPEALS. 19
M. FEES 19
N. ENFORCEMENT 19
O. APPROVED PLANT LIST 20

SEC. 9.2. ENVIRONMENTALLY SENSITIVE LANDS 24
A. PURPOSE AND INTENT 24
B. DEFINITIONS 24
1. Alteration or materially alter 24
2. Board of County Commissioners (B.C.C.) 24
3. Canopy 24
4. County 24
5. Day 24
6. Ecosystem 24
7. Environmentally sensitive lands 24
8. ERM 24
9. Ground cover 25
10. Invasive non-native plant species 25
11. Inventory of Native Ecosystems in Palm Beach County 25
12. Listed Species 25
13. Mitigation 25
14. Understory 25
15. Wetland 25
C. APPLICABILITY 25
D. EXEMPTIONS 26
1. Previous alterations 26
2. Existing, documented legal uses 26
3. Single-family lots 26
4. Preserve management activities 26
5. Vested rights 27
6. Other vested rights exemptions 27
7. Development approvals 28
E. DELETION OF SITES FROM INVENTORY 28
F. REVIEW PROCEDURES FOR PROPOSED LAND ALTERATION. 28
1. Application 28
2. Determination of sufficiency 29

3. Review and action 30
4. Acquisition 30
5. Proposed land alteration approval criteria 30
6. Master plans 32
7. Transferable development rights 32
G. APPEALS. 32
H. FEE 32
I. CASH PAYMENT/LAND BANK OPTION AND MAINTENANCE REQUIREMENT FOR WAIVER OF PRESERVE AREA FOR PUBLIC WORKS PROJECTS. 33
1. General 33
2. Non-public works projects 33
3. Cash payments 33
4. Land banking 33
5. Listed species 34
J. VIOLATIONS AND PENALTIES. 34
1. Fines 34
2. Other actions 35
3. Intergovernmental coordination 35
4. Use of collected monies 35
K. ASSESSMENT OF ENVIRONMENTALLY SENSITIVE LANDS 35
1. Conveyance or covenant 35
2. Assessed value 35
L. COORDINATION WITH OTHER GOVERNMENTAL ENTITIES 35

SEC. 9.3. WELLFIELD PROTECTION. 35
A. PURPOSE AND INTENT. 35
B. DEFINITIONS. 36
1. Aquifer 36
2. Closure Permit 36
3. Completed Application 36
4. Cone of Depression 36
5. Day 36
6. Designated Public Utility 36
7. Domestic Sludge 36
8. Domestic Wastewater 36
9. Emergency Hazardous Situation 36
10. Environmental Ordinance Appeals Board 36
11. ERM 36
12. Exfiltration System 36
13. Facility 37
14. Generic Substance List 37
15. Groundwater 37
16. Groundwater and Natural Resources Protection Board 37
17. Laboratory 37
18. Land Application 37
19. Nonresidential Activity 37

20. One Foot Drawdown Contour 37
21. Operating Permit 37
22. Percolation Pond 37
23. Person 37
24. Potable Water 37
25. Public Utility 37
26. Regulated Substances 38
27. Retention or Detention Pond 38
28. Spill 38
29. Utility 38
30. Well 38
31. Wellfield 38
32. Zones of Influence 39
33. Zones of Influence Maps 39

C. APPLICABILITY 39
1. Permit and license issuance. 39
2. Effective date 39
3. Time of review 39
4. Certification of compliance 40
5. Screening of Occupational License 40
6. Zone One (1) activities 40
7. Interdepartmental coordination 40

D. EXEMPTIONS. 40
1. General exemptions 40
2. Special exemptions 42

E. ZONES OF INFLUENCE. 45
1. Maps 45
2. Protection of future wellfields 46
3. Prohibitions and restrictions 46
4. Other requirements and liabilities 53
5. Requirements for domestic wastewater and stormwater treatment 53
6. Spill assessment and remediation 54

F. WELLFIELD PROTECTION (OPERATING AND CLOSURE PERMITS) 54
1. General 54
2. Applications 55

G. APPEALS 58
1. Matters for review and time for filing 58
2. Time for filing 58
3. Review 58

H. PETITION FOR COMPENSATION 58
1. Filing 58
2. Contents of petition 58
3. Hearing on petition 59
4. Review and evaluation criteria 59
5. Classes of impact for which compensation may be granted 60

I. TRANSFERS AND CHANGES IN OWNERSHIP 62

J. TRADE SECRETS 62
K. FEES 62
1. Filing fee 62
2. Wellfield protection operating permit fee 62
3. Closure permit fee 62
4. Permit transfer fee 62
5. Special exemption fee 62
6. General exemption fee 63
7. Annual permit renewal fee 63
8. Late fee 63
L. REVOCATION AND REVISION OF PERMITS AND EXEMPTIONS 63
1. Revocation 63
2. Revision 63
3. Spills 63
4. Revocation of exemptions 63
5. Notice 64
6. Appeals 64
7. Other remedies 64
M. VIOLATIONS, ENFORCEMENT AND PENALTIES 64
N. GROUNDWATER AND NATURAL RESOURCES PROTECTION BOARD. 64
O. PALM BEACH COUNTY POLLUTION RECOVERY TRUST FUND. 64
Appendix 9.3.A.Generic Substances List 65
Appendix 9.3.B.Operating and Closure Permit Bonds 66
Appendix 9.3.C."Best Management Practices" for the Construction Industry 66
Appendix 9.3.D.ORGANIC PRIORITY POLLUTANTS 67
Appendix 9.3.E.MINIMUM STANDARDS FOR SEWER PIPE FITTINGS, COATINGS AND LEAKAGE TESTING 69

SEC. 9.4 WETLANDS PROTECTION 70
A. PURPOSE AND INTENT 70
1. Purpose and intent 70
B. DEFINITIONS. 70
1. Alteration 70
2. Applicant 70
3. Buffer 70
4. Cambium 70
5. Commercial marinas 70
6. C.Y. 70
7. Creation 70
8. Day 70
9. Dock 70
10. Dredging 71
11. Enhancement 71
12. ERM 71
13. Filling 71
14. Freeze damaged mangroves 71

15. Freeze killed mangroves 71
16. Functions 71
17. In kind 71
18. Jurisdictional wetland 71
19. Mangrove 71
20. Mangrove fringe 71
21. Marinas 71
22. Mitigation 71
23. MHW 72
24. MLW 72
25. OHW 72
26. OLW 72
27. Pneumatophore 72
28. Prop root 72
29. Seagrasses 72
30. Wetland 72
C. APPLICABILITY. 72
D. AUTHORITY. 72
E. JURISDICTION. 73
F. EXEMPTIONS. 73
G. WATER QUALITY STANDARDS 77
H. PERMITS 77
I. CRITERIA FOR GRANTING PERMITS 79
J. MITIGATION. 83
1. Criteria 83
2. When to Evaluate Mitigation Proposals 83
3. Standards for Mitigation 84
K. APPEALS 85
L. FEES 86
M. ENFORCEMENT 86
N. SUNSET CLAUSE 86

ARTICLE 9
ENVIRONMENTAL STANDARDS

SEC. 9.1. COASTAL PROTECTION.

A. PURPOSE AND INTENT.

The purpose of this section is to preserve and protect the integrity of the coastal beach/dune system from any activity which would tend to destabilize the dune or reduce the ability of the coastal beach and dune to respond naturally to storm events. A naturally functioning beach/dune system is vital to the protection of upland property, the control of beach erosion, hurricane protection, coastal flood control and shoreline and offshore rehabilitation. In addition, it is a vital physical feature of the natural environment possessing outstanding geological, biological, recreational and scenic value for this and succeeding generations of citizens. This section is also intended to reduce impacts of coastal development on sea turtles.

B. DEFINITIONS.

Terms in this section shall have the following definitions. Additional terms defined in Article 3 may not apply to this section.

1. Alteration or materially alter means, for the purpose of this section, the removal, addition, or moving of sand; the removal or addition of any vegetation by planting or transplanting; or the destruction, pruning, cutting, or trimming of any vegetation, but shall exclude the removal of trees, seedlings, runners, suckers, and saplings of prohibited and invasive non-native plant species identified in Section 7.5.H, Vegetation Preservation and Protection. It shall also mean any construction, excavation or placement of a structure which has the potential to affect coastal biological resources, the control of beach erosion, hurricane protection, coastal flood control or shoreline and offshore rehabilitation.

2. Armoring is the placement of manmade structures or devices in or near the coastal system for the purpose of preventing erosion of the beach or the upland dune system or to protect upland structures from the effects of coastal wave and current activity. Such structures include but are not limited to sea walls, bulkheads, revetments, rock rip-rap, sand bags, toe scour protection and geotextile tubing. Armoring does not include structures or activities such as jetties or groins or activities whose purpose is to add sand to the beach or dune, or structures whose purpose is to alter the natural coastal currents, or to stabilize the mouths of inlets, or minor upland structures whose purpose is to retain upland fill and which are designed to be frangible under high frequency coastal hydrodynamic forces.

3. Artificial light source(s) shall mean any exterior source of light emanating from a man-made device, including but not limited to, incandescent, mercury vapor, metal halide or sodium lamps, spotlights, flood lights, landscaping lights, street lights, vehicular lights, construction or security lights.

4. Beach means the zone of unconsolidated material that extends landward from the mean high water line of the Atlantic Ocean to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves. Beach is alternately termed shore.

5. Beach access point shall mean any path through or over the dune used by the general public or, with respect to private property, by the owner or with the owner's permission, for the purpose of gaining access to the beach.

6. Beach cleaning means the clearing or burying of seaweed, debris, dead fish, or trash or the contouring of the beach by raking and leveling, provided that such activity shall not disturb existing beach or dune vegetation. Such activity shall not change the final ground elevations greater than one foot.

7. Beach compatible sand shall mean any sand that is similar to the native beach and dune material in terms of grain, size, distribution and color. The fill material shall consist of sand that falls within the same size classification of sand within the Unified Soils Classification System [i.e., find sand (0.074 to 0.42 mm), medium sand (0.42 to 2.0 mm) and coarse sand (2.0 to 4.76 mm)] as that of the native beach material. The acceptable silt/clay fraction (<0.074 mm) and gravel/cobble fraction (>4.76 mm) shall be determined by ERM based upon site conditions. Sand grain size analyses shall be consistent with the grain size methodology described in Folk, Robert L. 1980, Petrology of Sedimentary Rocks. The fill material color shall match the color of the existing beach and dune coloration as closely as possible.

8. Beach fill means sand placed on the beach.

9. Beachfront lighting shall mean all lighting within the jurisdictional boundaries of this section.

10. Board means the Board of County Commissioners representing Palm Beach County.

11. Coastal Protection Zone means an area of jurisdiction established by this section. This zone extends from the mean high water line of the Atlantic Ocean to a line twenty-five (25) feet landward of the crest of dune or the State of Florida Coastal Construction Control Line, whichever is more landward.

12. Coastal vegetation means all native plant species indigenous to Palm Beach County's beaches and dunes. The coastal vegetation species allowed for use are provided in this section.

13. Crest of the dune means the highest point in elevation of the dune.

14. Day means calendar day unless otherwise stated.

15. Dune means a hill or ridge of windblown sand and marine deposits lying landward of, and adjacent to, the beach which is formed by natural or artificial processes.

16. Dune profile means the cross-sectional configuration of the dune.

17. Egg means a shelled reproductive body produced by sea turtles.

18. Emergency means any unusual incident which results in immediate danger to the health, safety, welfare or resources of the residents of the County, including damages to, or erosion of, any shoreline resulting from a hurricane, storm, or other such violent disturbance.

19. ERM means the Palm Beach County Department of Environmental Resources Management.

20. Excavation means removal or displacement of soil, sand, or vegetation by the process of digging, dredging, cutting, scooping, or hollowing out.

21. Ground-level barrier means any natural or artificial structure rising above the ground which prevents beachfront lighting from shining directly onto the beach-dune system.

22. Hatchling means any specimen of sea turtle, within or outside of a nest, which has recently hatched from an egg.

23. Listed Species means any species listed as endangered, threatened, rare, or of special concern by one (1) or more of the following agencies: (1) U.S. Fish and Wildlife Service; (b) Florida Game and Fresh Water Fish Commission; (d) Florida Committee on Rare and Endangered Plants and Animals; (e) Florida Department of Agriculture and Consumer Services; or (f) Treasure Coast Regional Planning Council.

24. Motor vehicle includes any auto, car, van, truck, tractor, motorcycle, dune buggy, moped, ATC, or other similar vehicles, but excludes wheelchairs and emergency rescue vehicles.

25. Nest means the area in which sea turtle eggs are naturally deposited or relocated beneath the sediments of the beach-dune system.

26. Nesting season means the period from March 1 through October 31 of each year.

27. Peak nesting season means the period from May 1 through October 31 of each year.

28. Permitted agent of the State means any qualified individual, group or organization possessing a permit from the Florida Department of Natural Resources (FDNR) to conduct activities related to sea turtle protection and conservation.

29. Sand means sediments having a distribution of particle diameters between 0.074 and 4.76 millimeters, as defined in the Unified Soils Classification System. Sand grain analyses shall follow the methodology described in Folk, Robert L. 1980, Petrology of Sedimentary Rocks to determine grain size distribution.

30. Sand Preservation/Sea Turtle Protection Zone (SP/STPZ) means an area of jurisdiction, established by this Section, for the purpose of maintaining the volume of beach sand within the beach-dune system, as well as regulating coastal lighting. This zone extends from the mean high water line of the Atlantic Ocean to a line six hundred (600) feet landward.

31. Sea turtle(s) means any specimen belonging to the species Caretta caretta (loggerhead turtle), Chelonia mydas (green turtle), Dermochelys coriacea (leatherback turtle) or any other marine turtle using Palm Beach County beaches as a nesting habitat.

32. Seedling, sapling, runner, or sucker means any young plant or tree in early stages of growth.

33. Structure includes anything constructed or erected temporarily or permanently on the ground or attached to something having a permanent location on the ground and shall include houses, pools, patios, garages, gazebos, shore protection devices, pavement, signs, walls, bulkheads, fences, radio towers, or other types of construction with interior surfaces.

34. Tinted glass means any window which has: (a) a visible light transmittance value of forty-five (45) percent or less; and (b) a minimum of five (5) year warranty; and (c) performance claims which are supported by approved testing procedures and documentation.

35. All definitions as provided in Rule 16B-33.002 and 16B-41, F.A.C., of the Florida Department of Natural Resources, Rules and Procedures for Coastal Construction and Excavation are adopted as if set forth in full herein. In the event of a conflict between this Section and the adopted F.A.C., the provisions which are more stringent shall govern.

C. SHORT TITLE AND APPLICABILITY.

1. This section shall be known as the Palm Beach County Coastal Protection Standards. It repeals and replaces Palm Beach County Ordinances 72-12, 78-20, 87-13 and 90-2.

2. All provisions of this section shall be effective within the unincorporated and incorporated areas of Palm Beach County, Florida, and shall set restrictions, constraints and requirements to preserve and protect the coastal beaches, dunes, coastal vegetation, sea turtles and sea turtle habitat.

3. Palm Beach County funds for dune restoration or shore protection projects in municipalities shall be contingent upon this section being fully enforced or the adoption and enforcement of an equally stringent or more stringent ordinance by a municipality. Funding determinations shall be based on ERM's review and acceptance or rejection of a municipality's replacement ordinance, as well as a review of permits and variances and enforcement notices issued pursuant to the municipal ordinance.

4. This section shall apply to any activity that has the potential to adversely impact the coastal beaches, dunes and sea turtles in Palm Beach County within the limits of jurisdiction.

5. This section shall be liberally construed to effect the purposed set forth herein.

D. AUTHORITY.

This section is adopted under the authority of Sec. 125.01 et. seq., Fla. Stat.

E. JURISDICTION.

1. ERM shall have regulatory authority over alterations to the beaches, dunes and coastal lighting. This section establishes two (2) zones of jurisdiction -the Coastal Protection Zone and the Sand Preservation/Sea Turtle Protection Zone.

2. The Coastal Protection Zone is established for the purposes of protecting the integrity of the coastal beach and dune system. This zone extends from the mean high water line of the Atlantic Ocean to a line twenty-five feet (25') landward of the crest of the dune or the State of Florida Coastal Construction Control Line (CCCL), whichever is more landward. In areas where the natural dune has been severely altered due to clearing, grading or armoring, a twenty-five (25) foot setback shall be established from the top of armoring.

3. The Sand Preservation/Sea Turtle Protection Zone is established for two (2) reasons. They are: (a) for the purposes of maintaining the volume and quality of beach sand presently existing within the beach/dune system. (The unique characteristics of the sediments contained in the existing beaches and dunes of Palm Beach County require the preservation of these materials within the beach/dune system) and; (b) for the purpose of minimizing and controlling coastal lighting. The Sand Preservation/Sea Turtle Protection Zone extends from the mean high water line of the Atlantic Ocean to a line six hundred feet (600') landward.

4. Within the limits of jurisdiction of the Coastal Protection Zone as defined in this section, no person, firm, corporation, municipality, special district or public agency shall:

   a. construct any structure;

   b. place any soil, sand or material;

   c. make any excavation;

   d. remove any existing soil, sand or beach material or otherwise alter existing ground elevations;

   e. alter, damage or cause to be damaged any sand dune or coastal vegetation;

   f. install any artificial lighting; or

   g. drive any motor vehicle on, over, or across any beach or sand dune without first having obtained a permit from ERM as provided for in this section. Nothing herein shall prevent official motor vehicles of any governmental agency or permitted agent of the State from traversing any sand dune or beach in the performance of official duties, provided the vehicle operators avoid coastal vegetation whenever possible and drive as close to the low water line as possible.

5. Within the limits of jurisdiction of the Sand Preservation/Sea Turtle Protection Zone as defined in this subsection, no person, firm, corporation, municipality, special district or public agency shall remove any beach or dune sediments from their property or from the Sand Preservation/Sea Turtle Protection Zone or install any artificial lighting without first having obtained a permit from ERM as provided for in this section.

6. Upon request, ERM shall provide a Coastal Protection Zone jurisdictional determination of a specified parcel of land. The request shall include at least three (3) topographic surveys of the subject property with a scale of 1" = 20' or less, within the property boundaries clearly marked. The survey shall include the Coastal Construction Control Line (CCCL) as well as spot elevations to the nearest one tenth foot throughout the beach-dune area. At the request of ERM, the landowner may be required to provide additional elevations, directions, or access or field markings of the subject property. Such jurisdictional determinations shall be considered accurate by ERM for a period of two (2) years unless there is a change to this section, at which time the jurisdictional determination shall be considered invalid.

F. EXEMPTIONS.

1. The following activities are exempt from the permitting requirements of this section:

   a. The voluntary planting of native dune plants as identified on the approved plant list (Sec. 9.1.0) provided that:

      (1) Planting which is located seaward of the existing vegetation strand occurs outside of the peak sea turtle nesting season (May 1 through October 31);
      (2) That no existing dune vegetation will be impacted during the course of planting; and
      (3) Plant selection is based upon the appropriate dune zone to be revegetated (pioneer, scrub, forest).

   b. Minor dune enhancement projects which involve the placement of no greater than 100 cubic yards of beach compatible sand within the coastal protection zone provided that:

      (1) Its placement area will not impact native dune vegetation;
      (2) The fill area is vegetated within 10 days of placement with approved plants (Sec 9.1.0);
      (3) Construction occurs outside of the peak sea turtle nesting season (May 1 through October 31; and
      (4) Plant selection is based upon the appropriate zone to be revegetated (pioneer, scrub, forest).

   c. The removal of harmful exotic vegetation provided that no native vegetation will be adversely impacted and provided that cleared areas are quickly replanted with native coastal vegetation according to the list provided in Sec. 9.1.O. and will be placed in appropriate natural zones on the dune profile.

   d. The placement of lifeguard towers on an unvegetated area of the beach outside the peak sea turtle nesting season.

   e. The installation of public utility transmission lines provided that such lines are designed to minimize impacts to native vegetation and occur outside the peak sea turtle nesting season. If impacts to the vegetation are unavoidable, any loss shall be replaced in kind, following utility line placement.

   f. Those projects for which ERM determines that there will be no significant environmental impacts.

G. GENERAL PERMITS

1. General Permits are required for the construction of dune walkovers, coastal vegetation trimming, beach cleaning, emergency repairs, dune revegetation and maintenance projects that are not otherwise exempt, and minor fill projects involving the placement of 101 to 500 cubic yards of fill over less than 10,000 square feet. General Permits shall be issued provided the proposed project complies with the criteria specified in Sec. 9.1.H. Applicants with proposed projects that do not meet the criteria for a General Permit must apply for a Permit pursuant to 9.1.I.

2. General Permit applications shall be made on a form approved by ERM. ERM may make use of forms already in use by State and/or federal agencies.

3. An Application shall not be deemed complete until the application fee and any and all information necessary to fully understand the extent, nature, and potential impacts of a proposed project are received by ERM. Such information may include, but is not limited to:

   a. A completed application form;

   b. An explanation of the purpose and necessity of the project;

   c. A description of construction techniques and schedules;

   d. Photographs of existing conditions which may include aerial photographs;

   e. Plans showing profile and plan views including elevations of proposed and existing structures, dune and vegetation;

   f. Sediment analysis of existing dune and beach and any proposed fill material.

4. When an application is made for work in common areas of a multi-family residential site (i.e., condominiums, apartments, townhouses, villas, etc.) the representative association, or all of the homeowners as a group, shall be the applicant. ERM shall not process an application made by one unit owner in a multi-family setting where the work is proposed on lands designated as, or can reasonably be considered to be, common areas.

5. Upon receipt of an application and appropriate application fee, ERM shall have twenty (20) days to request any additional information pursuant to Sec. 9.1.G.3 above.

6. If ERM does not make a request for additional information within twenty (20) days of receipt of an application and appropriate application fee or requested information, the application shall be deemed complete upon receipt.

7. Failure to respond to an ERM request for additional information within sixty (60) days may result in the application being denied without prejudice. However, ERM may grant an extension of time as is reasonably necessary to fulfill a request for additional information.

8. Upon receipt of a completed application and fee, ERM shall have forty-five (45) days to take final action unless the applicant agrees in writing to a time extension or waiver of this requirement. Final agency action shall be General Permit issuance, conditional General Permit issuance, or notice of inapplicability under the General Permit criteria.

9. Any General Permit application containing false information may be rejected and any General Permit issued based upon false information may be revoked.

10. General Permits may be issued by ERM with a duration of one (1) year with annual renewal conditioned upon General Permit compliance.

11. ERM may attach conditions to any General Permit where such conditions are deemed reasonably necessary to protect sea turtles, the environmental integrity of the subject site, or areas of potential impact.

12. Any application received that is substantially the same as a previous application that has been denied by ERM shall also be denied without further processing.

13. Any site or property owner that is subject to or recipient of a notice of violation or notice of General permit noncompliance that remains unresolved shall not to be issued an ERM General Permit or Permit.

14. Any substantial modification to a complete application, or to an issued General Permit, shall require an amended application form and an additional application fee pursuant to Sec. 9.1.M and shall restart the time periods of this subsection.

15. The provisions of this subsection shall not apply to structures, plantings, and alterations existing or under construction as of February 2, 1990 provided, however, that such existing structures and those structures under construction, are not expanded beyond the specification of their respective plans existing and approved as of this effective date of the section.

[Ord. No. 93-4]

H. CRITERIA FOR ISSUANCE OF A GENERAL PERMIT.

1. A general permit shall be issued pursuant to this section provided that the applicant provides to ERM reasonable assurance that the following criteria will be met:

   a. The applicant must demonstrate with adequate engineering data that the proposed project will not adversely affect the natural exchange of sand within the beach/dune system, the control of beach erosion, and the level of storm protection.

   b. The proposed project does not adversely impact the stability of the dune.

c. There shall be no net loss of sand from the Sand Preservation/Sea Turtle Protection Zone. Sand temporarily excavated from the Sand Preservation/Sea Turtle Protection Zone shall be returned to the Sand Preservation/Sea Turtle Protection Zone prior to the expiration date of the permit. In addition, the sand may not be degraded by mixing with any sediment, soil, or material, such that it will not meet the definition for beach compatible sand as defined.

d. The proposed project will not adversely impact the conservation of wildlife or their habitats with special emphasis placed upon the protection of listed species.

e. Project alternatives and modifications to lessen impacts have been determined to be infeasible.

f. The project is not in contravention with any other federal, state or local designated preserve, conservation or mitigation area.

g. ERM determines that the cumulative impacts of the subject project and other similar projects will also meet the criteria of this section.

h. Any and all light fixtures shall be designed to be the minimum level necessary for safety and will be positioned such that they do not cause illumination (direct or indirect) of areas seaward of the existing seawall or crest of dune and the source of light is not directly visible from the beach.

i. There shall be no adverse impacts to sea turtles, sea turtle nesting and sea turtle habitat. Measures that may be implemented to protect sea turtles include:

(1) Design and placement of structures to minimize impacts;
(2) Scheduling construction to occur outside peak nesting season;
(3) Daily nesting surveys allowing nests to be marked and avoided during construction; or
(4) Elimination or alternation of all proposed or existing exterior lights that cause direct or indirect illumination of areas seaward of the existing crest of dune or which are visible from the beach.

j. The proposed project is in accordance with Rule 16B-33.005, F.A.C., Florida Department of Natural Resources (FDNR) Rules and Procedures for Coastal Construction and excavation. In the event of a conflict between this section and the F.A.C., the provisions which are more stringent shall govern.

k. The proposed project is in accordance with Rule 16B-33.007, F.A.C., Rules and Procedures for Coastal Construction and excavation. In the event of a conflict between this section and the adopted F.A.C., the provisions which are more stringent shall govern.

l. ERM staff shall consider the FDNR Policy Memoranda (PM) 1-32 when evaluating coastal permit applications.

2. In addition to the foregoing general criteria, a general permit shall not be issued for the following specific activities unless and until the following specific criteria have been met:

a. **Dune Walkovers**. When issuing permits for dune walkovers, ERM shall require that:

(1) Privately owned structures shall not exceed four (4) feet in walkway width.
(2) Publicly owned structures or those serving multi-family residences or resorts shall not exceed eight (8) feet in width.
(3) The walkover shall be located in an area that will ensure minimal disturbance to existing native vegetation. Construction activity shall disturb the minimum amount of vegetation with preference given to preserving scrub and forest zone vegetation and in no case shall such disturbance exceed the width of the permitted walkover.
(4) The slope of the walkover shall match the slope of the dune as closely as possible while still meeting applicable building codes for stairs.
(5) Construction which has potential impacts to sea turtle nesting shall occur only between November 1 and April 30.
(6) **Information Sign Requirements.** Permanent sea turtle information signs shall be conspicuously posted by applicable jurisdictions at all public beach access points provided with dune crossovers. The information signs shall be standardized by the ERM.
  (a) **Responsibility.** Sea turtle information signs shall be encouraged at all new private beach access points provided with dune crossovers. Signage shall be the responsibility of the property owner.
  (b) **Sign Maintenance Requirements.** Standardized sea turtle information signs shall be maintained in perpetuity such that information printed on the signs remains accurate and legible and the signs positioned such that they are conspicuous to persons at all public beach access points provided with dune crossovers.
  (c) **Sign Removal.** Removal of the information signs by anyone other than those authorized by ERM is prohibited.

b. Coastal Vegetation Trimming

In order to create visual corridors between upland properties and the ocean, coastal vegetation may be trimmed on an annual basis. The objective of these criteria is to provide for these visual corridors without having a negative impact upon the beaches, dunes and native dune ecosystems. No coastal vegetation trimming shall be permitted if it results in additional lights being visible from the beach or exposure of salt-sensitive coastal hammock vegetation to increased salt spray. Coastal vegetation trimming projects shall comply with the following criteria:

(1) **Reducing height of sea-grapes.** Sea-grape trees may be permitted to be maintained to ten (10) feet in height. For trees greater than ten (10) feet in height, the sea-grape will not be reduced greater than twenty-five (25) percent per year to a height of ten (10) feet. If the height of sea-grapes is reduced, no windows shall be permitted under the trimmed canopy.
(2) **Viewing windows.** Viewing corridor "windows" may be trimmed through sea-grapes provided they meet the following criteria:
  (a) No "window" may be over twenty (20) feet in length.
  (b) All "windows" shall be separated by a minimum of twenty (20) feet of untrimmed dune vegetation.
  (c) "Windowing" shall not comprise more than twenty percent (20%) of the property frontage.
  (d) The maximum height of any "window" shall be eight (8) feet (as measured from the landward side of the sea-grape stand).
  (e) Only branches less than one (1) inch in diameter may be trimmed.

(f) All sea-grapes shall retain a minimum four (4) feet canopy after trimming (as measured from the landward side of the sea-grape stand).

(g) Sea-grapes shall be a minimum of eight (8) feet in height (as measured from the landward side of the sea-grape stand) before "window" trimming will be considered.

(h) Where "windowing" occurs no hedging will be permitted.

(3) **Freeze damaged sea-grapes.** Freeze damaged sea-grapes may be trimmed for aesthetic reasons. However, ERM general permits for such alteration shall be subject to the following conditions:

(a) ERM shall not consider a request to trim freeze damaged sea-grape until October 1, following the freeze event.

(b) Freeze damaged sea-grape shall not be reduced by more than fifty (50) percent of the original height and in no case shall the height be reduced lower than four (4) feet above the ground elevation.

(c) Freeze damaged sea-grape may be altered by removing dead wood no closer than one (1) foot from live material, in no case to exceed the specifications of Sec. 9.1.H.2.b.

(d) Branches removed shall be chipped and left on the dune.

c. **Beach Cleaning Activity.** Routine raking of seaweed and other natural debris is strongly discouraged because of the role it plays in dune formation, beach stabilization and as a food source for birds and invertebrates that inhabit the coastal zone. Beach cleaning activities should target and be designed for the removal of man created trash and litter.

(1) Beach cleaning equipment will be permitted on the beach provided that mechanized equipment is not used within fifteen (15) feet of any existing coastal vegetation. Existing coastal vegetation specifically includes isolated patches of pioneer plants and seedlings.

(2) Naturally occurring organic debris such as seaweed shall be left on the beach. The debris may be either left in place or raked into piles. Outside of peak sea turtle nesting season, the piles may be buried in a continuous line along the beach or placed at the base of an unvegetated dune scarp provided that mechanized equipment is not used within fifteen (15) feet of the toe of the dune or within fifteen (15) feet of any existing vegetation. During peak sea turtle nesting season, debris must be left at or below the previous high tide mark. Trash and litter, such as plastics, shall be removed from the beach and properly disposed of at a resource recovery facility or recycling center. Raked debris shall not be placed on adjacent property without permission from the adjacent property owner.

(3) Equipment, methodologies and points of access shall be consistent with beach-dune preservation policies established by Palm Beach County and the State.

(4) Beach cleaning shall be confined to daylight hours.

(5) During the peak nesting season (May 1 through October 31):

(a) Beach cleaning operations shall be limited to the wrack line (previous high tide mark) or below.

(b) Light-weight motorized vehicles having wide, low-profile, low pressure tires shall be used to conduct beach cleaning operations instead of heavy equipment.

(c) Devices used for removing debris from the beach shall be designed and/or operated such that they do not penetrate beach sediments by more than two (2) inches.

(d) Access for beach cleaning equipment is restricted to access points approved by ERM.

d. **Emergency Repairs**. An emergency repair may be authorized where the proposed construction is necessary to prevent the imminent collapse of a structure; or where the proposed construction is for placement of sand fill or sand-filled bags and a structure which constitutes a human hazard. ERM staff shall conduct an on-site inspection and an evaluation prior to authorizing any emergency repair.

e. **Dune Restoration**. When issuing general permits for dune restoration (101 to 500 cubic yards over 10,000 square feet or less), ERM shall require that:

(1) All plants used for restoration plantings must be selected from the Approved Plant List, Sec. 9.1.O. ERM may approve additional species on the list that can be documented to be local native coastal species.

(2) Plants shall be selected according to vegetation community being restored: pioneer zone, scrub zone or forest zone.

(3) Temporary irrigation systems may be installed, but must be placed above the ground and removed or disconnected from the water source within six (6) months of the completion of planting.

I. PERMITS.

1. Any activity described in Sec. 9.1, 9.2 not qualifying for a General Permit (Sec. 9.1.G) shall require a permit by ERM, unless specifically exempted by this section.

2. Permit applications shall be made on forms approved by ERM. ERM may make use of forms already in use by state and/or federal agencies.

3. An application shall not be deemed complete until the application fee and any and all information necessary to fully understand the extent, nature, and potential impacts of a proposed project are received by ERM. Such information may include, but is not limited to:

a. A completed application form.

b. An explanation of the necessity and purpose of the project.

c. A description of construction techniques and schedules.

d. Photographs of existing conditions which may include aerial photographs.

e. Plans showing profile and plan views including elevations of the proposed structure, dune and vegetation.

f. Sediment analysis of existing dune and beach and any proposed fill material.

g. Engineering models and predictions.

h. Biological evaluation of the proposed project site.

i. **Light and Window Tinting Information**. Electrical, building and landscape plans shall be submitted for all exterior lights and windows within line of sight of the beach in unincorporated Palm Beach County and in municipalities that do not have a sea turtle protection ordinance in effect. Light and window tinting information shall include:

(1) The location, number, wattage, elevation, orientation and type of proposed floodlights, spotlights and other fixtures discharging lighting.
(2) The location, number, wattage, elevation, orientation and type of all other artificial light sources including, but not limited to, those used on balconies, walkways, recreational areas, roadways, parking lots, dune crossovers, decks, boardwalks and signs.
(3) Protective/mitigative measures to minimize lighting impacts on sea turtles, including measures to prevent direct illumination of areas seaward of the crest of the dune.
(4) Window tinting specifications for all windows within line of sight of the beach including percentage of visible light transmittance.

j. For projects constructed during the peak sea turtle nesting season, the additional information may also be required.

(1) A schedule of proposed construction periods.
(2) The number of lineal feet of shoreline seaward of the dune upon which construction will occur.
(3) The number and type of vehicles anticipated during construction, the type of equipment and materials to be used seaward of the dune, and the location of beach access points to be used in moving equipment and materials to and from the construction site.
(4) The location, number, wattage, elevation and orientation, and type of temporary nighttime security lights.
(5) Protective/mitigative measures to minimize construction impacts on sea turtles.
(6) Name and FDNR turtle permit number of person responsible for implementing protective measures.

4. **Notification of Affected Parties.** When an application is made for work that has the potential to affect shoreline erosion and environmental protection on adjacent properties, it shall be the responsibility of the applicant to notify in writing and provide a copy of the application, to owners of all properties adjacent to the property containing the proposed project or within three hundred (300) feet of the proposed project for which a permit is requested. Where the adjacent property is a multi-family residential site (i.e., condominiums, apartments, townhouses, villas, etc.), the representative association or all of the homeowners as a group shall be notified. The notification must also be submitted in a format approved by ERM. However, where the property for which the permit is sought is part of, or adjacent to, property owned by the same person, the three hundred (300) foot distance shall be measured from the boundaries of the entire ownership; except that notice need not be mailed to any property owner located more than one half mile (2,640 feet) from the property for which the permit is sought. For the purposes of this requirement, the names and addresses of property owners shall be deemed those appearing on the property appraiser's records of Palm Beach County. Issues pertaining to this section related to shoreline erosion and environmental protection that are raised by notified property owners will be addressed by ERM during the evaluation of application completeness. Notified property owners must submit comments within thirty (30) days of notification to be considered.

5. When an application is made for work in common areas of a multi-family residential site (i.e., condominiums, apartments, townhouses, villas, etc.), the representative association, or all of the homeowners as a group, shall be the applicant. ERM shall not process an application made by one (1) unit owner in a multi-family setting where the work is proposed on lands designated as, or can reasonably be considered to be, common areas.

6. Upon receipt of an application and appropriate application fee, ERM shall have thirty (30) days to request any additional information pursuant to Sec. 9.1.I.3 above. Within thirty (30) days of receipt of such additional information, ERM may request only that information needed to clarify such additional information or to answer new questions raised by, or directly related to, such additional information. ERM may begin processing an application in the absence of the appropriate application fee. However, no time clocks of this subsection shall begin until the appropriate application fee is received.

7. If ERM does not make a request for additional information within thirty (30) days of receipt of an application or requested information, the application shall be deemed complete upon receipt.

8. If an applicant fails to respond to an ERM request for an application fee, or any additional information, within sixty (60) days, the application may be denied without prejudice. However, ERM may grant an extension of time as is reasonable necessary to fulfill the request for additional information.

9. Upon receipt of a completed application and fee, ERM shall have ninety (90) days to take final action unless the applicant agrees in writing to a time extension or waiver of this requirement. Final agency action shall be permit issuance, permit denial, or conditional permit issuance. Failure by ERM to take final action within ninety (90) days shall result in the authorization of the proposed work with standard limiting conditions.

10. Any application containing false information may be rejected and any permit issued based upon false information may be revoked.

11. ERM permits may be issued with a duration period that is reasonably necessary to complete the project not to exceed five (5) years. Permits for mechanical beach cleaning or vegetation alteration activities shall be issued on an annual, renewable basis.

12. ERM may attach conditions to any permit where such conditions are deemed reasonably necessary to protect sea turtles, the environmental integrity of the subject site or areas of potential impact.

13. Any application received that is substantially the same as a previous application that has been denied by ERM shall also be denied without further processing.

14. Any site or property owner that is subject to or recipient of a notice of violation or notice of permit noncompliance issued by ERM that remains unresolved shall not be issued an ERM permit.

15. Any substantial modification to a compete application, or to an issued permit, shall require an amended application form and an additional application fee pursuant to Sec. 9.1.M and shall restart all time periods of this subsection.

[Ord. No. 93-4]

J. CRITERIA FOR ISSUANCE OF A PERMIT.

1. A permit may be issued pursuant to this section provided that the applicant provides to ERM reasonable assurance that the following criteria will be met:

   a. The applicant must demonstrate with adequate engineering data that the proposed project will not adversely affect the natural exchange of sand within the beach/dune system, the control of beach erosion, and the level of storm protection.

   b. The proposed project does not adversely impact the stability of the dune.

   c. There shall be no net loss of sand from the Sand Preservation/Sea Turtle Protection Zone. Sand temporarily excavated from the Sand Preservation/Sea Turtle Protection Zone shall be returned to the Sand Preservation/Sea Turtle Protection Zone prior to the expiration date of the permit. In addition, the sand may not be degraded by mixing with any sediment, soil, or material that is not approved by ERM.

   d. The proposed project will not adversely impact the conservation of wildlife or their habitats with special emphasis placed upon the protection of listed species.

   e. Project alternatives and modifications to lessen impacts have been determined to be infeasible.

   f. The project is not in contravention with any other federal, state or local designated preserve, conservation or mitigation area.

   g. ERM determines that the cumulative impacts of the subject project and other similar projects will also meet the criteria of this section.

   h. Any and all light fixtures shall be designed to be the minimum level necessary for safety and will be positioned such that they do not cause illumination (direct or indirect) of areas seaward of the existing seawall or crest of dune and the source of light is not directly visible from the beach.

   i. There shall be no adverse impacts to sea turtles, sea turtle nesting and sea turtle habitat. Measures that may be implemented to protect sea turtles include:

      (1) Design and placement of structures to minimize impacts;
      (2) Scheduling construction to occur outside peak nesting season;
      (3) Daily nesting surveys allowing nests to be marked and avoided during construction; or
      (4) Elimination or alternation of all proposed or existing exterior lights that cause direct or indirect illumination of areas seaward of the existing crest of dune or which are visible from the beach.

      (5) **Exterior light and windows.**

(a) Standards for new beachfront lighting. All lighting installed after September 2, 1987 in unincorporated Palm Beach County and in municipalities that do not have a sea turtle protection ordinance in effect shall comply with the following standards:

1) **General Prohibition.** No artificial public or private light source shall directly or indirectly illuminate areas seaward of the crest of the dune or be visible from the beach where it may deter adult female sea turtles from nesting or disorient hatchlings.

2) **Permanent Lighting.** The installation of permanent lighting shall reflect the standards and mitigative measures published in the current state-of-the-art manual pertaining to coastal lighting and sea turtle conservation (Raymond, Paul W., Sea Turtle Hatchling Disorientation and Beachfront Lighting: A Review of the Problem and Potential Solutions, Washington, (D.C.), Center for Environmental Education, 1984).

3) **Reference Availability.** ERM shall make a copy of the Raymond manual available for review. As design and/or performance standards are developed or upgraded and become available, ERM may provide additional references.

4) **Controlled Use, Design and Positioning of Lighting.**
   a) Any and all light fixtures shall be designed and/or positioned such that they do not cause direct or indirect illumination of areas seaward of the crest of the dune and the source of light is not directly visible from the beach.
   b) All lights on balconies shall be eliminated or shielded from the beach.
   c) High intensity lighting for decorative or accent purposes shall not be permitted within the zone of jurisdiction. Lighting used in parking lots within five hundred (500) feet of the mean high water line shall be:
      i) Set on a base which raises the source of light no higher than forty-eight (48) inches off the ground.
      ii) Positioned and/or shielded such that the source of light is not visible from the beach.

5) **Installation of Tinted Glass or Window Tint.** Tinted glass or any window film applied to window glass which meets the shading criteria for tinted glass, shall be installed on all windows within line of sight of the beach.

6) **Beachfront Lighting Approval.** Prior to the issuance of a Certificate of Occupancy by the Department of Planning, Zoning and Building or local building department, each facility shall be inspected for compliance as follows:
   a) Upon completion of the construction activities, a Florida registered architect or professional engineer shall conduct a site inspection which includes a night survey with all the beachfront lighting turned on.
   b) The inspector shall prepare and report the inspection finding in writing to ERM, identifying:
      i) The date and time of initial inspection.
      ii) The extent of compliance with this section.
      iii) All areas of potential and observed noncompliance with this section.
      iv) Any action(s) taken to remedy observed noncompliance and date remedy will be implemented, if applicable.
      v) The date(s) and time(s) of remedial inspection(s), if applicable.
   c) The inspector shall sign and seal the inspection report which includes a certification that:
      i) The beachfront lighting has been constructed in accordance with this section.

ii) The inspector observed the project area at night with all lights operating.
iii) The beachfront lighting does not illuminate areas seaward of the crest of the dune at the time of the night inspection.
iv) The beachfront light sources within the jurisdictional boundaries are not directly visible from the beach at the time of the night inspection.

(b) **Standards for Existing Beachfront Lighting.** Existing beachfront lighting shall comply with the following conditions by April 1, 1988.

1) **Adjustment to Essential Lighting.** Existing artificial light sources shall be repositioned, modified or replaced with modern alternatives so that the source of light is not directly visible from the beach and/or does not directly or indirectly illuminate areas seaward of the crest of dune. In some cases, it may be desirable to retrofit fixtures and install low pressure sodium vapor lights producing wavelengths between 589 and 590 nanometers. Modifications using low pressure sodium lighting shall be coordinated with ERM. Techniques and/or materials used shall be consistent with the Raymond manual referenced in Sec. 9.1.J.1.i.(5)(a)2) and other reference manuals identified by ERM.
2) **Reduction of Indirect Lighting on the Beach.** The installation of ground level barriers including dense native vegetation is strongly encouraged and may be required to reduce the amount of indirect lighting striking the beach-dune system.
3) **Lighting for Pedestrian Traffic.** Lights illuminating beach access points, dune crossovers, beach walkways, piers or any other structure seaward of the crest of the dune designed for pedestrian traffic shall be the minimum level necessary to maintain safety and shall be located and shielded such that lights and their illumination are not directly visible from the beach.
4) **Use of Window Treatments.** To prevent interior lights from illuminating the beach, window treatment shall be required on all windows visible from the beach within jurisdictional boundaries. Blackout draperies or shadescreens are preferred. Alternatively or additionally, window tint may be applied to beachfront windows. The turning out of all unnecessary interior lights during the nesting season is strongly encouraged.
5) **Special Lighting Restrictions During the Peak Nesting Season.** Effective May 1, 1988, and continuously throughout each peak nesting season (May 1 through October 31), external light sources that are visible from the beach or illuminate directly or indirectly areas seaward of the crest of the dune shall be turned off.
6) **Enforcement and Implementation of Mitigative Measures.** In areas where compliance with the lighting conditions of this ordinance are not evidenced, non-compliant property owners shall be required to implement appropriate protective measures, developed in consultation with ERM to mitigate against potential negative impacts to sea turtles. Mitigative measures shall be implemented in addition to applicable penalties and fines. Any mitigation program implemented as a result of noncompliance with lighting conditions of this ordinance shall remain in effect until such time that acceptable beachfront lighting is achieved. Relocation of nests shall be considered only as a last resort and as a temporary measure while other solutions are being developed and implemented.

j. The proposed project is in accordance with Rule 16B-33.005, F.A.C., Florida Department of Natural Resources (FDNR) Rules and Procedures for Coastal Construction and excavation. In the event of a conflict between this section and the F.A.C., the provisions which are more stringent shall govern.

k. The proposed project is in accordance with Rule 16B-33.007, F.A.C., Rules and Procedures for Coastal Construction and excavation. In the event of a conflict between this section and the adopted F.A.C., the provisions which are more stringent shall govern.

l. ERM staff shall consider the FDNR Policy Memoranda (PM) 1-32 when evaluating coastal permit applications.

K. MITIGATION.

1. **General.** For projects that do not meet the permitting criteria of Secs. 9.1.H or 9.1.J, ERM may evaluate proposals for mitigation. ERM shall first use the criteria of Sec. 9.1.K.2 to determine when mitigation is appropriate. The criteria of Sec. 9.1.K.3 shall be used to set standards for accepting mitigation proposals.

2. **When to Evaluate Mitigation Proposals.**

   a. No Alternative Site. Restoration or creation may be permitted to compensate for loss of functional dune ecosystem only where a permit applicant demonstrates that the proposed activity cannot be practically located landward of the Coastal Protection Zone.

   b. All practical measures will be taken to reduce impact. Restoration or creation may be permitted to compensate for dune loss only where the permit applicant has made reasonable project modification measures to reduce dune loss and degradation.

3. **Standards for Mitigation.**

   a. **No Overall Net Losses.** Restoration or creation may be permitted to compensate for dune losses only where restoration and/or creation will restore lost dune functions and values in the zone which is being impacted and where it does not result in loss to sea turtle nesting habitat. The following mitigation ratios shall be presumed to restore dune functions and values when performed in kind:

      (1) Landward of Armored Shoreline.....1.0:1
      (2) Natural Shoreline
         (a) Pioneer Zone Vegetation.....2.0:1
         (b) Scrub Zone Vegetation.....3.0:1

   b. Only where the created dune can be expected to surpass the values and functions of the existing dune can the ratio be adjusted downward.

   c. ERM shall require a ratio for restored or created functions and/or acreage exceeding these ratios where:

(1) Uncertainties exist as to the probable success of the proposed restoration or creation; or
(2) The degradation or destruction will deprive Palm Beach County of various dune values for a period of time until the restoration or creation is completed and functional; or
(3) Mitigation is proposed off-site or not in kind; or
(4) Mitigation proposals include restoration or enhancement of an existing dune rather than a new creation.

L. APPEALS.

Any affected party may appeal a final determination of ERM made pursuant to this section to the Environmental Ordinance Appeals Board. A written notice of appeal shall be filed by the applicant with the Director of ERM within twenty (20) days from receipt of the decision appealed from, setting forth in detail the factual basis for such an appeal. The appeal shall be reviewed at a hearing by the appeal board within sixty (60) days of ERM's receipt of a request and a $50.00 filing fee. The appeal board shall enter a decision by written order not less than ten (10) days following conclusion of the hearing. The order shall include findings of fact and conclusions of law and shall be deemed final administrative action. An applicant or ERM may appeal a final decision of the appeal board within thirty (30) days of the rendition of the decision by filing a petition for Writ of Certiorari in Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

M. FEES.

1. A fee shall be required as established by the approved fee schedule.

2. Permit application fees shall be non-refundable and nontransferable.

3. All application fees paid by check shall be made payable to the Palm Beach County Board of County Commissioners.

N. ENFORCEMENT.

1. Any structures, projects or alterations which would have been in violation of Palm Beach County Ordinances No. 72-12, 78-20, 87-13 or 90-2, as amended, during its effective period, shall continue to be violations under this section but shall be subject to prosecution under the terms of Ordinance No. 72-12, 78-20, 87-13 or 90-2 as amended.

2. Failure to comply with the requirements of this section or any permit or approval granted or authorized hereunder shall constitute a violation of this section. Violations of the provisions of this section, upon conviction, shall be punished by a fine not to exceed five hundred dollars ($500) per violation, per day, or by imprisonment in the County jail not to exceed sixty (60) days, or by both fine and imprisonment pursuant to the provisions of Sec. 125.69, Fla. Stat. In addition to the sanctions contained herein, the County and/or other municipal entity may take any other appropriate legal action, including, but not limited to, administrative action and requests for temporary and permanent injunctions to enforce the provisions of this section. It is the purpose of this section to provide additional cumulative remedies.

3. The following specific activities are prohibited by this section and shall be considered a violation of this section:

   a. Pedestrians shall not transverse a natural dune within 200 feet of a public dune walkover except by use of the walkover or other approved walkovers.

   b. The routine storage of boats/watercraft within a vegetated dune area is specifically prohibited except for emergency use not to exceed 24 hours during storm events.

   c. The unauthorized alteration or damage to or removal of the beaches, dunes or coastal vegetation in any manner defined by this section of up to 1,500 square feet in extent.

   d. Alteration or damage to or removal of each additional 1,500 square feet, or portion thereof, of beaches, dunes or coastal vegetation in violation of this section shall constitute a separate violation.

   e. Cumulative violations shall be determined by the addition of each 1,500 square feet tract or portion thereof of beaches, dunes or coastal vegetation, whether altered in the same manner or in a different manner, as defined by this section.

   f. Alteration of a sea grape shall constitute an individual violation pursuant to this section.

4. Violations of this section may be referred by ERM to the Groundwater and Natural Resources Protection Board for corrective actions and civil penalties and coordinated with the appropriate municipal entity, if applicable.

5. Alteration, removal of, or damage to the beaches, dunes or coastal vegetation may result in an order to restore to pre-existing conditions.

6. All monies collected pursuant to violations of this section shall be deposited in the Pollution Recovery Trust Fund.

O. APPROVED PLANT LIST

In addition to the following list, ERM may approve additional species that can be documented to be local native coastal species.

Pioneer Zone

Alternanthera maritima	chaff flower
Alternanthera ramosissima	chaff flower
Ambrosia hispida	ragweed
Bidens pilosa	spanish needles
Borrichia arborescens	sea oxeye
Canavalia maritima	bay bean
Cenchrus spp.	sand spur
Chamaesyce spp.	beach spurge
Cnidoscolus stimulosus	tread softly

Commelina erecta	day flower
Croton glandulosus	beach croton
Distichlis spicata	salt grass
Helianthus debilis	beach sunflower
Hymenocallis latifolia	spider lily
Ipomoea pes-caprae	railroad vine
Ipomoea stolonifera	fiddleleaf morning glory
Iva imbricata	beach elder
Okenia hypogaea	beach-peanut
Panicum amarum	dune panic grass
Paspalum vaginatum	seashore paspalum
Remirea maritima	beach star
Salola kali	Russian thistle
Scaevola plumieri	ink berry
Sesuvium portulacastrum	sea purslane
Spartina patens	cordgrass
Sporobolus virginicus	seashore droposeed
Suriana maritima	bay cedar
Tournefortia gnaphalodes	sea lavender
Tribulus cistoides	puncture weed
Uniola paniculata	sea oats

Scrub Zone

Agave decipiens	agave
Andropogon capillipes	chalky bluestem
Ardisia escallonioides	marlberry
Arenaria pentandra	sandwort
Baccharis halimifolia	grounsel
Borrichia frutescens	sea daisy
Callicarpa americana	American beautyberry
Capparis flexuosa	limber caper
Centrosema virginianum	butterfly pea
Chiococca alba	snowberry
Chrysobalanus icaco	cocoplum
Coccoloba uvifera	sea grape
Commelina erecta var.angustifolia	day flower
Crotalaria pumila	beach rattlebox
Croton glandulosus	beach croton
Dalbergia ecastophyllum	coin vine
Echites umbellata	Devil's potato
Ernodea littoralis	golden creeper
Eugenia axillaris	white stopper
Eugenia foetida	Spanish stopper
Flaveria linearis	yellowtop
Galactia macreei	milk pea

Guapira discolor	blolly
Hamelia patens	fire bush
Iva imbricata	beach elder
Ipomoea indica	purple morning glory
Jacquemontia reclinata	beach jacquemontia
Lantana involucrata	wild sage
Licania michauxii	gopher apple
Lycium carolinianum	Christmas berry
Melanthera aspera	melanthera
Melothria pendula	creeping cucumber
Mikania cordifolia	climbing hempweed
Morinda royoc	yellowroot
Myrica cerifera	wax myrtle
Myrsine floridana	myrsine
Opuntia spp.	prickly pear
Panicum amarum	dune panic grass
Parthenocissus quinquefolia	Virginia creeper
Passiflora suberosa	corky-stemmed passion flower
Physalis viscosa	ground cherry
Pithecellobium guadalupense	blackbead
Polygala grandiflora	milkwort
Psychotria nervosa	wild coffee
Randia aculeata	white indigoberry
Sabal palmetto	cabbage palm
Serenoa repens	saw palmetto
Smilax spp.	green briar
Solanum bahamense	nightshade
Solidago stricta	goldenrod
Sophora tomentosa	necklace pod
Spartina patens	cordgrass
Suriana maritima	bay cedar
Tournefortia gnaphalodes	sea lavender
Trichostema suffrutescens	blue curls
Uniola paniculata	sea-oats
Verbena maritima	beach verbena
Vigna luteola	cow pea
Yucca aloifolia	Spanish bayonet

Forest Zone

Amyris elemifera	torchwood
Ardisia escallonioides	marlberry
Bursera simaruba	gumbo limbo
Caesalpinia bonduc	nickerbean
Capparis cynophallophora	Jamaica caper
Capparis flexuosa	Limber caper
Chiococca alba	snowberry
Citharexylum fruticosum	fiddle wood
Chrysobalanus icaco	cocoplum
Coccoloba diversifolia	pigeon-plum
Coccoloba uvifera	sea-grape
Cocos nucifera	coconut palm
Conocarpus erecta	button wood
Diospyras virginiana	persimmon
Drypetes lateriflora	Guiana-plum
Erythrina herbacea	coral bean
Eugenia axillaris	white stopper
Eugenia foetida	Spanish stopper
Exothea paniculata	inkwood
Ficus aurea	strangler fig
Forestiera segregata	Florida privet
Guapira discolor	blolly
Hamelia patens	fire bush
Ipomoea alba	moonflower
Ipomoea indica	purple morning glory
Krugiodendron ferreum	black ironwood
Mastichodendron foetidissimum	wild mastic
Metopium toxiferum	poison wood
Morus rubra	red mulberry
Myrsine floridana	myrsine
Nectandra coriacea	lancewood
Persea borbonia	red bay
Pithecellobium guadalupense	blackbead
Psychotria nervosa	wild coffee
Quercus virginiana	live oak
Randia aculeata	white indigo berry
Rivina humilis	rouge plant
Sabal palmetto	cabbage palm
Serenoa repens	saw palmetto
Simarouba glauca	paradise tree
Urechites lutea	wild allemanda
Zanthoxylum fagara	wild lime

SEC. 9.2. ENVIRONMENTALLY SENSITIVE LANDS.

A. PURPOSE AND INTENT.

The purpose and intent of this section is to preserve and protect the values and functions of environmentally sensitive lands from land alterations that would result in the loss of these lands or significant degradation of their values and functions.

B. DEFINITIONS.

Terms in this section shall have the following definitions. Additional terms defined in Article 3 may not apply to this section.

1. Alteration or materially alter means the result of human caused activity which modifies, transforms or otherwise changes the environment, including but not limited to the following:

   a. The addition, removal, displacement, or disturbance (severe pruning, hatracking, poisoning) of vegetation but shall exclude prescribed ecological burning for the management of native Florida communities, the removal of trees, seedlings, runners, suckers, and saplings of prohibited and invasive non-native plant species identified in Sec. 7.5.H, Vegetation Preservation and Protection.
   b. Demucking and grading of soil.
   c. The removal, displacement, or disturbance of rock, minerals or water.
   d. The grazing of cattle or other livestock.
   e. Placement of vehicles, structures, debris or any other material objects thereon, including introduction or injection of water and other substances.

2. Board of County Commissioners (B.C.C.) means the Board of County Commissioners of Palm Beach County, Florida.

3. Canopy means the upper portions of trees consisting of limbs, branches, and leaves, which constitute the upper layer of a forested community.

4. County means Palm Beach County, Florida.

5. Day means calendar day unless otherwise stated.

6. Ecosystem means an assemblage of living organisms (plants, animals, microorganisms, etc.) and nonliving components (soil, water, air, etc.) that functions as a dynamic whole through which organized energy flows.

7. Environmentally sensitive lands means ecological sites (ecosites), other than wetlands, that are designated in the Inventory of Native Ecosystems in Palm Beach County and on its accompanying aerial photographs as "A" quality, representing high-quality native Florida upland ecosystems. These sites are indicated on the aerial photographs (received on May 30, 1989) that are on file at ERM and are incorporated herein by reference.

8. ERM means the Palm Beach County Department of Environmental Resources Management.

9. Ground cover means plants, other than turf grass, normally reaching an average maximum height of not more than twenty-four inches (24") at maturity.

10. Invasive non-native plant species means any plant not indigenous to this state, which exhibits, or has the potential to exhibit, uncontrolled growth and invasion or alteration of the natural qualities of any native ecological community. A list of invasive, non-native plant species shall be maintained by ERM.

11. Inventory of Native Ecosystems in Palm Beach County means reports and annotated aerials produced during the study with this title, which was conducted by consultants under contract to Palm Beach County.

12. Listed Species means any species listed as endangered, threatened, rare, or of special concern by one (1) or more of the following agencies:

    a. U.S. Fish and Wildlife Service;
    b. Florida Game and Fresh Water Fish Commission;
    c. Florida Committee on Rare and Endangered Plants and Animals;
    d. Florida Department of Agriculture and Consumer Services; and
    e. Treasure Coast Regional Planning Council.

13. Mitigation means an action or series of actions that will offset the adverse impacts to the native upland ecosystems in Palm Beach County that cause a project to be not approved.

14. Understory means the structural component of a forest community below the canopy and above the ground layer composed of a complex of woody, fibrous or herbaceous plant species.

15. Wetland means any persistent or intermittent water body or area characterized by the dominance of those submerged or transitional wetland species listed in the Florida Administrative Code Rule 17-301 or located within or up to three (3) miles directly offshore of Palm Beach County. Dominance shall be defined in accordance with Florida Administrative Code Rule 17-301 and shall be determined in the appropriate plant stratum (canopy, subcanopy, or ground cover) as outlined in Florida Administrative Code Rule 17-301.

C. APPLICABILITY.

All provisions of this section shall apply within the unincorporated and incorporated areas of Palm Beach County, Florida and shall set restrictions, constraints and requirements to preserve and protect environmentally sensitive lands. The provisions of this section shall apply to the alteration of land in any manner that has the potential to impact the values and functions of those sites identified as "A" quality native uplands in the Inventory of Native Ecosystems in Palm Beach County ("environmentally sensitive lands"). No person shall cause the alteration of environmentally sensitive lands, unless such alteration is exempted or approved under the provisions of this section.

D. EXEMPTIONS.

An applicant who is entitled to and desires an exemption from the requirements of this section shall submit an application for exemption to ERM, with accompanying evidence that the applicant is entitled to the exemption pursuant to this section. This application shall include, at a minimum, a description of the nature and date of the alteration or proposed alteration, documentation of prior approval(s), a site location map, photographs, and, if possible, two (2) recent aerial photographs clearly delineating the location of the property. If the application is for a project claiming an exemption pursuant to the vested rights exemptions of Sec. 9.2.D.5, the application shall include evidence of the applicable approval, approving entity, and any supporting documentation. If the application is for a project claiming exemption pursuant to the single-family lots of this Code, the application shall include a copy of the lot survey. ERM or the County Attorney's Office, as applicable shall make a determination of the applicant's eligibility for an exemption, and ERM shall render a written decision thereon within sixty (60) days of receipt by ERM of the application for exemption and all information necessary to make the exemption determination. If the application is deemed incomplete, ERM shall make a written request for additional information. The owner or its agent shall have sixty (60) days to provide the additional information. If ERM does not receive the additional information within the specified time frame, ERM may deactivate the application. An applicant or owner may appeal ERM's decision within twenty (20) days of receipt of ERM's final action, pursuant to Sec. 9.2.G. No alterations shall occur until receipt of ERM's written exemption notice.

1. **Previous alterations.** An exemption from the requirements of this section is available for any project whereby, upon the effective date hereof, all of the following conditions are applicable:

   a. The environmentally sensitive land has been altered prior to November 2, 1989;

   b. The land alteration occurred pursuant to valid permits from all applicable regulatory entities; and

   c. The environmentally sensitive land no longer retains the natural values and functions on which the designation of environmental sensitivity was based.

2. **Existing, documented legal uses.** The provisions of this section shall not apply to existing legal uses for which, upon November 2, 1989, a level of use has been documented. Documented uses may continue at this same level, but an increased level of use or a change in use shall come under the regulatory scope of this section.

3. **Single-family lots.** An exemption from the requirements of this section is available for a single-family residential lot provided that, upon November 2, 1989, the lot contained less than four (4) acres of environmentally sensitive lands.

4. **Preserve management activities.** An exemption from the requirements of this section is available for preserve management activities on publicly- or privately-owned lands, provided that all of the following conditions are applicable:

   a. The preserve area is designated as such by deed restriction, conservation easement, dedication to a public entity or approved private conservation group for the purpose of preservation in perpetuity or such other similar protective measures as determined by the appropriate governmental entity;

b. The purpose of the activity is protection and preservation of the natural values and functions of the ecological communities present, such as clearing of firebreaks for prescribed burning or construction of fences; and

c. The owner or management entity provides documentation of such designation and purpose to ERM and receives written approval from ERM prior to undertaking the activity. Such documentation need be provided only once for a particular site if an approved long-term management plan for the area is included.

The use of existing roads or trails, for example, as firebreaks are preferred to the construction of new access roads or fire lanes since new construction generally results in the introduction and spread of invasive non-native plant species.

5. **Vested rights.** An exemption from the requirements of this section is available for any project for which, by November 2, 1989:

a. A building permit has been issued; or

b. A site plan approval has been issued; or

c. A subdivision approval pursuant to County subdivision plat law has been issued; or

d. A master plan approval has been issued; or

e. Any municipal equivalent of a, b, c, or d, above has been issued; or

f. A complete application for a, b, c, d, or e, above was submitted on or before August 22, 1989; or

g. A valid development order for a Development of Regional Impact has been issued; or

h. A sufficiency notification for a Development of Regional Impact has been issued by the Treasure Coast Regional Planning Council; and

i. The approval granted has not expired or a substantial change to the development plan, as defined in this Code, has not been made.

6. **Other vested rights exemptions.** If an applicant, in good faith, upon an act or omission of the County or municipality, has made such a substantial change in position or has incurred extensive obligations and expenses such that the application of the requirements of this section would be highly inequitable and unjust by destroying the right acquired, then the applicant may submit to ERM an application for exemption pursuant to Sec. 9.2.D.5, 9.2.D.5 with all accompanying documentation to evidence the existence of said vested right. The application shall be reviewed by the Palm Beach County Attorney's Office and ERM shall provide a written response within sixty (60) days of submittal of all documentation needed to evaluate the requested exemption.

7. **Development approvals.** Any project that has received a development approval pursuant to the procedures and criteria of Secs. 9.2.D.5. or 6. shall be exempt from further consideration unless the approval granted is no longer applicable due to the expiration of the permit or approval or because a substantial change has been made to the development plan, as defined in this Code.

[Ord. No. 93-4]

E. DELETION OF SITES FROM INVENTORY.

Pursuant to direction by the Board issued on October 3, 1989, ERM shall have begun and shall continue to delete from the Inventory of Native Ecosystems in Palm Beach County those sites or portions of sites:

1. Upon which alteration has legally occurred and the environmentally sensitive land no longer retains the natural values and functions on which the designation of environmental sensitivity was based; or

2. Whereon, an exemption has been granted pursuant to Sec. 9.2.D.1 and 9.2.D.3.

Once a site is deleted from the Inventory of Native Ecosystems in Palm Beach County, it shall not be subject to further regulation under this section.

F. REVIEW PROCEDURES FOR PROPOSED LAND ALTERATION.

Proposed land alteration approval by the County or a municipality shall be required prior to the approval of any development order that would allow the alteration of Environmentally Sensitive Lands. The County or responsible municipality shall consider the results of an environmental assessment with comments and recommendations by ERM prior to the issuance of a development order for the alteration of Environmentally Sensitive Lands.

1. **Application.** ERM's evaluation of the proposed alteration or development shall be based on the environmental impact study submitted by the property owner or a designated agent. For residential lots five (5) acres or less in size and containing four (4) acres or more of environmentally sensitive lands, ERM shall complete the site assessment needed to make an evaluation of the proposed development project. A written statement from ERM declaring the capability of the site plan to fulfill the intent of this section shall then be provided. For all other projects, the property owner or designated agent shall provide the following information:

a. Complete application form.

(1) Proposed land alteration applications shall be made on forms developed by ERM and made available to the public, and

(2) An application shall not be deemed complete until the application fee has been received by ERM and an environmental impact study, containing all information necessary to fully understand the extent, nature, and potential impacts of proposed land alteration activity, has been deemed to be sufficient by ERM based on the information required in this Section.

b. Site conditions.

(1) Site location map - with the specific property clearly indicated.
(2) Aerial photograph - with the specific property and acreage clearly indicated (Scale: 1" = 300' or less).
(3) Map of existing terrestrial and aquatic vegetation, including invasive non-native plant species and native plant community types. A description of each native plant community type, including canopy, understory, and ground cover shall be provided.
(4) Soil type(s) and condition(s).
(5) List of Listed Species found on site.
(6) Colonial bird nesting or roosting areas or areas in which migratory species are known to concentrate.
(7) Archaeologically and historically significant features.
(8) Geologically significant features.
(9) Areas of previous disturbance or degradation, including present and past human uses of site.
(10) Surrounding land uses.

c. Project description and preserve design.

(1) Proposed preserve area at the same scale and as an overlay to the vegetation map detailed in Sec. 9.2.F.1.b.(3).
(2) Existing zoning.
(3) Status of development approvals, including permit applications.
(4) General project description.

d. Professional certification. All drawings for applications other than work on a private single-family residential lot shall be sealed or certified by:

(1) A Florida registered professional engineer;
(2) A Florida registered professional surveyor;
(3) A Florida registered professional landscape architect; or
(4) An Environmental Professional certified by the National Association of Environmental Professionals.

2. Determination of sufficiency. Within thirty (30) days of the receipt of an application for proposed land alteration, ERM shall determine whether the application is complete and the environmental impact study is sufficient. If ERM determines that the information provided is not sufficient, additional information reasonably determined to be required by ERM shall be requested by ERM in writing within thirty (30) days of receipt of the application. In the event no such request is made by ERM within the thirty (30) day period, then it shall be conclusively presumed that the application is complete. For the purpose of this section, the applicant shall not have met the procedural requirements for the submittal of a complete application for a development order until a complete environmental impact study and the appropriate fee have been submitted to ERM.

3. **Review and action.** Upon receipt of a complete application for proposed land alteration, ERM shall review and evaluate the environmental impacts of the proposal in light of the goals of this section. ERM shall work with the applicant and other environmental agencies to provide for the best possible preserve site and development proposal to satisfy the goals of this section, as well as allowing for sound development of the property. To allow approval of the development proposal, ERM shall provide its written comments to the appropriate governmental development review authority or authorities within forty-five (45) days of receipt of a complete application so that conditions may be placed on the approval reasonably necessary to minimize adverse environmental impacts, as described in this section. For those projects that do not otherwise require a development order, ERM shall issue an approval by letter within forty-five (45) days of receipt of a complete application if the applicant meets the approval criteria of Sec. 9.2.F.5.

4. **Acquisition.** Should ERM decide that public acquisition of the property should be considered as the best option to protect the environmentally sensitive lands proposed for development, ERM shall initiate action before the Board of County Commissioners and/or other appropriate municipal entity for consideration of such possibility. Action on the development application shall be deferred by the governmental development review authority for a period of time not to exceed sixty (60) days while said agencies consider the public acquisition of the land. At the expiration of the sixty (60) day period, the development application shall be allowed to proceed through the development approval process, subject to appropriate conditions described in this section, unless the land has been acquired or interest in public acquisition is formally confirmed.

   a. **Application deferral.** Should the Board and/or other municipal entity decide that public acquisition is the best option to protect all or part of these environmentally sensitive lands proposed for development, approval of the proposed development will be deferred for a one hundred eighty (180) day period. This extension will allow time to effect public acquisition. The Board shall adopt acquisition criteria by ordinance or resolution prior to consideration of any acquisition.

   b. **Resumption of application processing.** Should the Board and/or other municipal entity decide not to acquire all or part of the particular site containing environmentally sensitive lands, the development application, as modified for any lands acquired by the public, shall be allowed to proceed through the development approval process, subject to appropriate conditions as described in this section.

5. **Proposed land alteration approval criteria.** After consideration of ERM's recommendations, the proposed land alteration may be approved by the appropriate governmental development review authority if all of the following conditions are satisfied:

   a. At a minimum, twenty-five (25) percent of the environmentally sensitive lands shall be set aside in a preserve status for the protection and preservation in perpetuity of the values and functions of the environmentally sensitive lands, including maintenance without infringement by facilities for drainage or utility easements. Preserve areas shall consist of a single contiguous tract whenever possible and shall be identified based on the quality of habitats, the presence of listed species, proximity to other natural areas and other relevant factors. Alteration within the preserve shall require ERM approval and shall be limited to the construction of boardwalks, pervious walkways, and other passive recreational or educational facilities; the construction of firebreaks, fire lanes, or fence lines; and the removal of invasive non-native species and their replacement with native

species. The use of existing roads and trails, for example, as firebreaks, is preferred to the construction of new access roads or fire lanes, as these disturbances generally result in the introduction and spread of invasive non-native plant species. The preserve area location shall be identified prior to development of the site plan or plat required for approval of a proposed development. ERM or the appropriate governmental development review authority shall have the option to designate the portion of environmentally sensitive lands which shall be preserved. Such areas shall be selected and preserved in an unaltered condition, with intact canopy, understory and groundcover; and

b. A management plan of the preserve area shall be prepared by the applicant and shall include, but not be limited to, eradication and continued monitoring and removal of invasive non-native plant species, control of off-road vehicles, and maintenance of hydrological requirements. Periodic controlled burning or mechanical methods that would simulate the natural processes of the natural historic fire regime may be required for some areas; and

c. For those lands identified for preserve status, one of the following conditions must be enacted: placement of appropriate deed restrictions on said lands and recorded in the public records of Palm Beach County; dedication to a public entity or ERM-approved private conservation group for the purposes of preservation; establishment of appropriate restrictive conservation easements in perpetuity; or such other similar protective measures as determined by the appropriate governmental entity, upon completion of all review processes. A conservation easement shall be established for a preserve area on a single-family residential lot. The deed restriction or conservation easement shall be dedicated to the County or appropriate municipal entity and shall be recorded prior to the onset of construction; and

d. Clustering of development on less sensitive portions of the site shall be considered; and

e. All reasonable efforts, as determined by ERM, shall be made to link the preserve area to preserves, sanctuaries, refuges, parks, or open-space areas on adjacent lands to provide a corridor for movement of wildlife; and

f. For a site on which Listed Species are present, one (1) of the following criteria must be satisfied:

(1) The applicant shall successfully demonstrate that the proposed action will not preclude the continued survival and viability of those listed species located on the site; or

(2) The applicant shall present a plan for relocation, either on-site or off-site, for those listed species, which has been reviewed and approved by all appropriate agencies.

6. **Master plans.** If the environmentally sensitive lands, together with on-site wetlands, are greater than six hundred forty (640) acres in size and are owned by a single entity, the County or a municipal entity shall allow for consideration of a master plan which provides a minimum twenty-five (25) percent preserve area and flexibility to define the preserve area or adjust its boundaries accordingly as development proceeds. This master plan shall include the site conditions information required pursuant to Sec. 9.2.F.1.b to enable ERM to distinguish intra-site differences in the quality of the environmentally sensitive lands. This master plan shall be submitted in lieu of the submittal requirements outlined in Sec. 9.2.F.1, except for the site conditions information and required fees. For lands identified for preserve status, protective measures as determined acceptable by the appropriate governmental entity shall be implemented. Upon consideration, approval will be granted for a master plan, provided that:

   a. The minimum twenty-five (25) percent preserve area is maintained;

   b. The master plan and designated preserve boundaries are approved by the County or municipal entity; and

   c. The preserve area is set aside in perpetuity by deed restriction, conservation easement, or other appropriate mechanism.

7. **Transferable development rights.** The use of transfer of development rights, land banking, and other mechanisms that would allow preservation of larger tracts of environmentally sensitive land is hereby encouraged.

G. APPEALS.

An applicant may appeal a final determination of ERM made pursuant to Sec. 9.2.D, 9.2.E and 9.2.F of this section to the Environmental Ordinance Appeals Board. An appeal must be made within twenty (20) days of the applicant's receipt of ERM's final action. Each hearing shall be held within sixty (60) days of submittal of all documents which the Environmental Ordinance Appeals Board deems necessary to evaluate the appeal. At the conclusion of the hearing, the Environmental Ordinance Appeals Board shall orally render its decision (order), based on evidence entered into the record. The decision shall be stated in a written order and mailed to the applicant no later than ten (10) days after the hearing. Decisions of the Environmental Ordinance Appeals Board shall be final. An applicant or ERM may appeal a final written order of the Environmental Ordinance Appeals Board within thirty (30) days of the rendition of the written order by filing a petition for Writ of Certiorari in Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

H. FEE.

No application shall be deemed complete without the specified fee payment. A fee shall be required as established by the approved Fee Schedule. Fees are nonrefundable and nontransferable. Fees paid by check shall be made payable to the "Palm Beach County Board of County Commissioners."

I. CASH PAYMENT/LAND BANK OPTION AND MAINTENANCE REQUIREMENT FOR WAIVER OF PRESERVE AREA FOR PUBLIC WORKS PROJECTS.

1. **General.** A governmental entity may request a waiver of the establishment of a preserve area for a public works project, provided that:

   a. The applicant provides a feasibility study to ERM which describes the alternatives to the proposed project that would cause less degradation or loss of environmentally sensitive lands that have been considered and discusses the rationale for each option rejected;

   b. A cash payment is made or a land bank credit is obtained;

   c. No listed species have been determined to exist on the site; and

   d. If the proposed public works project is adjacent to other environmentally sensitive land, the maintenance plan for the project site and for the right-of-way, if the project is a roadway, shall include a provision requiring these areas to be maintained to prevent the introduction of invasive non-native plant species and their spread to the adjacent environmentally sensitive lands.

2. **Non-public works projects.** Non-public works projects are not eligible for the cash payment/land bank option and must comply with the review procedures for proposed land alteration specified in this section.

3. **Cash payments.** The Board or appropriate municipality shall have the option of accepting a cash payment in lieu of preservation. Cash payments shall be deposited into a Natural Areas Fund to be established and operated by the County for the acquisition and management of environmentally sensitive lands and wetlands. The cash payment shall be at least equivalent to the average per acre appraised value, at the time of waiver application, multiplied by the number of acres required to be preserved. Payment shall be provided to the County prior to any alteration or development activities.

4. **Land banking.** The Board or appropriate municipality shall have the option of accepting a land bank credit in lieu of preservation. An upland ecological communities land bank may be established by a governmental entity for mitigation of upland impacts associated with a public works project that involves the construction of new public works facilities or additions to existing facilities. The land bank shall be located within Palm Beach County and shall provide at least equivalent-quality ecological communities to those that would be altered on the site of the proposed project. The site of the land bank shall be large enough to provide for long-term maintenance of the native ecological communities present and to support mitigation for additional public works projects or have the potential to do so through acquisition of adjacent properties with similar ecological communities. For a particular public works project, the ecological community or communities used for credit at the land bank site must be of the same type and quality as the community or communities altered as a consequence of the public works project. At least two (2.0) acres of land in the land bank must be set aside for every one (1.0) acre altered by the proposed project. The lands in the bank shall be set aside in perpetuity by deed restriction, conservation easement, or other appropriate mechanisms. The deed restriction, conservation easement, or other mechanism shall be dedicated to the County or appropriate municipal entity.

a. **Land purchase.** Land for the mitigation bank must be purchased in advance of construction of the public works project. The public entity that owns the bank may sell or trade credits to other public entities, provided that the initial public entity retains ownership of a majority (fifty (50) percent or greater) of the site and overall management responsibility. Credit from the land bank shall be given for each project as it proceeds through the development review process. The land bank site must be maintained and managed to preserve its natural values and functions and to ensure the survival of any listed species present on the site. Such management shall include, but not be limited to, removal of exotic species, prescribed burning, and fencing to prevent off-road vehicle use. Public use of land bank lands for passive recreational activities shall be encouraged. These activities shall be managed to ensure protection of the functions and values of the site. A management plan shall be developed by the initial owner and approved by ERM. All other owners shall cooperate with the initial owner in implementing this management plan.

b. **Restoration and management activities.** Restoration and management activities shall be permitted on portions of the site where such activities would benefit the long-term viability of the plant and animal communities present or restore communities that historically were present. A minimum of ten (10) percent of the funds contributed for the acquisition of the land bank shall be designated for site management and maintenance of the ecological communities.

c. **Evaluation of land banks.** The success of the first land bank shall be evaluated by the County and ERM prior to the development of additional banks.

5. **Listed species.** If listed species are determined to exist on the site, the cash payment or land bank option may be approved if one (1) of the following criteria can be satisfied:

a. The applicant successfully demonstrates that the proposed action will not preclude the continued survival and viability of those listed species located on the site; or

b. The applicant presents a plan, which has been reviewed and approved by all appropriate agencies, for relocation of those species either on-site or off-site.

J. VIOLATIONS AND PENALTIES.

1. **Fines.** Failure to comply with the requirements of this section or with any terms of approval granted or authorized hereunder shall constitute a violation of this section. Violations of the provisions of this section, upon conviction, shall be punished by a fine not to exceed five hundred dollars ($500) per violation, or by imprisonment in the County jail not to exceed sixty (60) days, or by both fine and imprisonment pursuant to the provisions of Sec. 125.69, Fla. Stat. A violation of this section shall be the alteration of environmentally sensitive lands in any manner defined by this section, up to fifteen hundred (1,500) square feet in extent. Alteration of each additional fifteen hundred (1,500) square feet tract of environmentally sensitive lands or portion thereof in violation of this section shall constitute a separate violation of this section. Cumulative violations shall be determined by the addition of each fifteen hundred (1,500) square feet tract of environmentally sensitive lands or portion thereof, whether altered in the same manner or in a different manner, as defined by this section. Alteration of environmentally sensitive lands may result in an order to restore the site to pre-existing conditions.

2. **Other actions.** In addition to the sanctions contained herein, the County and other municipal entity, if applicable, may take any other appropriate legal action, including, but not limited to, administrative action and requests for temporary and permanent injunctions to enforce the provisions of this section. It is the purpose of this section to provide additional cumulative remedies.

3. **Intergovernmental coordination.** Violations of this section may be referred by ERM to the Groundwater and Natural Resources Protection Board for corrective actions and civil penalties and coordinated with the appropriate municipal entity, if applicable.

4. **Use of collected monies.** All monies collected as fees or fines pursuant to this section shall be deposited in a Natural Areas Fund to be established for the acquisition and management of environmentally sensitive lands and wetlands.

[Ord. No. 93-4]

K. ASSESSMENT OF ENVIRONMENTALLY SENSITIVE LANDS.

1. **Conveyance or covenant.** Pursuant to Sec. 193.501, Fla. Stat., owners of environmentally sensitive lands other than areas set aside as preserves may, for a term of not less than ten (10) years:

   a. Convey the development rights to the County; or

   b. Covenant with the County that such land shall be subject to the conservation restrictions provided in Sec. 704.06, Fla. Stat., for conservation easements or not be used for any purpose other than passive outdoor recreational or park purposes.

2. **Assessed value.** The lands which are subject to such conveyance or covenant shall be assessed relative to their value for the present use as restricted by the conveyance or covenant under this section. Such restrictions on land uses and property value assessments shall be in accordance with Sec. 193.501, Fla. Stat.

L. COORDINATION WITH OTHER GOVERNMENTAL ENTITIES.

The County shall coordinate with municipalities and other agencies regarding the purchase, protection and passive use of the environmentally sensitive lands and their component species that may be acquired under the provisions of this section.

[Ord. No. 93-4; February 2, 1993]

SEC. 9.3. WELLFIELD PROTECTION.

A. PURPOSE AND INTENT.

The purpose and intent of this section is to protect and safeguard the health, safety, and welfare of the residents and visitors of Palm Beach County, Florida by providing criteria for regulating and prohibiting the use, handling, production and storage of certain deleterious substances which may impair present and future public potable water supply wells and wellfields.

B. DEFINITIONS.

Terms in this section shall have the following definitions. Additional terms defined in Article 3 may not apply to this section.

1. Aquifer means a groundwater bearing geologic formation, or formations, that contain enough saturated permeable material to yield significant quantities of water.

2. Closure Permit means that permit required by activities which must cease operation pursuant to the provisions of Sec. 9.3.F.

3. Completed Application means an application which includes all materials and documents which are necessary to support the application and which has been accepted as complete by ERM.

4. Cone of Depression means an area of reduced water levels which results from the withdrawal of groundwater from a point of collective source such as a well, wellfield, de-watering site or quarry. The areal extent and depth of the depression is a function of the hydraulic properties of the aquifer, the pumpage rates and recharge rates.

5. Day means calendar day unless otherwise stated.

6. Designated Public Utility means that public utility which operates a well or wells for which the zones of influence include part or all of the property on which the nonresidential activity is located.

7. Domestic Sludge means a solid waste resulting from sewage, seepage, or food service operations, or any other such waste having similar characteristics. Domestic sludge includes sludge resulting from the treatment of domestic wastewater.

8. Domestic Wastewater means wastewater derived principally from dwellings, business buildings, institutions, and the like; sanitary wastewater; sewage.

9. Emergency Hazardous Situation occurs whenever there is an immediate and substantial danger to human health, safety, or welfare or to the environment.

10. Environmental Ordinance Appeals Board means that Board designated by the Board of County Commissioners of Palm Beach County to hear and render decisions on appeals of final administrative determinations, and to conduct hearings and render decisions as required under applicable county environmental Ordinances or sections of the Unified Land Development Code.

11. ERM means the Palm Beach County Department of Environmental Resources Management.

12. Exfiltration System means any gallery, perforated or "leaky" pipe or similarly designed structure which is used to dispose of untreated stormwater by allowing the routed water to percolate by subsurface discharge directly or indirectly into the groundwater.

13. Facility means main structures, accessory structures and activities which store, handle, use or produce Regulated Substances. Where contiguous facilities exist and such facilities are separate in the nature of the businesses, they shall remain separate under this section.

14. Generic Substance List means those general categories of substances set forth in Appendix 9.3.A attached hereto and incorporated herein.

15. Groundwater means water that fills all the unblocked voids of underlying material below the ground surface, which is the upper limit of saturation, or water which is held in the unsaturated zone by capillarity.

16. Groundwater and Natural Resources Protection Board means that Board designated by the Board of County Commissioners of Palm Beach County, to hear alleged violations of this section and other state and local laws protecting the groundwater and natural resources of the County.

17. Laboratory means a designated area or areas used for testing, research, experimentation, quality control, or prototype construction, but not used for repair or maintenance activities (excluding laboratory equipment), the manufacturing of products for sale, or pilot plant testing.

18. Land Application means the application or disposal of effluents or sludges on, above, or into the surface of the ground through spray irrigation, land spreading, or other methods.

19. Nonresidential Activity means any activity which occurs in any building, structure or open area which is not used primarily as a private residence or dwelling.

20. One Foot Drawdown Contour means the locus of points around a well or wellfield where the free water elevation is lowered by one (1) foot due to a specified pumping rate of the well or wellfield.

21. Operating Permit means the permit required of certain activities under Sec. 9.3.F.

22. Percolation Pond means an artificial impoundment similar to a holding pond for which the design and operation provides for fluid losses through percolation or seepage.

23. Person means any individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, owner, lessee, tenant or any other entity whatsoever or any combination of such jointly or severally.

24. Potable Water means water that is intended for drinking, culinary or domestic purposes, subject to compliance with County, State or Federal drinking water standards.

25. Public Utility means any privately-owned, municipally-owned, County-owned, special district-owned, or State-owned system providing water or wastewater service to the public which has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals daily for at least sixty (60) days of the year.

26. Regulated Substances means:

a. Those deleterious substances or contaminants, including degradation and interaction products which, because of quality, concentration, or physical, chemical (including ignitability, corrosivity, reactiveness and toxicity), or infectious characteristics, radioactivity, mutagenicity, carcinogenicity, teratogenicity, bioaccumulative effect, persistence (non-degradability) in nature, or any other characteristic, may cause significant harm to human health and environment (including surface and groundwater, plants, and animals).

b. Those substances set forth in, but not limited to, the lists, as amended from time to time, entitled Lists of Hazardous Wastes (40 CFR Part 261, Subpart D), 40 CFR, Part 261, Appendix VIII-Hazardous Constituents, and EPA Designation Reportable Quantities and Notification Requirements for Hazardous Substances Under CERCLA (40 CFR 302, effective July 3, 1986); provided, however, that this section shall only apply whenever the aggregate sum of all quantities of any one Regulated Substance at a given facility/building at any one time exceeds five (5) gallons where said substance is a liquid, or twenty-five (25) pounds where said substance is a solid.

The section shall also apply if no single substance exceeds the above reference limits but the aggregate sum of all Regulated Substances present at one facility/building at any one time exceeds one hundred (100) gallons if said substances are liquids, or five hundred (500) pounds if said substances are solids.

Where Regulated Substances are dissolved in or mixed with other non-Regulated Substances, only the actual quantity of the Regulated Substance present shall be used to determine compliance with the provisions of this section.

Where a Regulated Substance is a liquid, the total volume of the regulated Substance present in a solution or mixture of said substance with other substances shall be determined by volume percent composition of the Regulated Substance, provided that the solution or mixture containing the Regulated Substance does not itself have any of the characteristics described in Sec. 9.3.B.26.a. above.

27. Retention or Detention Pond means any pit, pond, or excavation excluding canals of conveyance which creates a body of water by virtue of its connection to groundwater, and which is intended to receive stormwater.

28. Spill means the unpermitted release or escape of a Regulated Substance, irrespective of the quantity thresholds in Sec. 9.3.B.26.b., directly or indirectly to soil, surface waters or groundwaters.

29. Utility means a public utility, power company or telephone company which serves the general public.

30. Well means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is to conduct groundwater from a source bed to the surface by pumping, natural flow or other method.

31. Wellfield means an area of land which contains one or more than one well for obtaining water.

32. Zones of Influence means zones delineated by iso-travel time contours and the one (1) foot drawdown contour within cones of depression of wells which obtain water from the unconfined or surficial aquifer system. These zones are calculated, based on the rate of movement of groundwaters in the vicinity of wells at a specified pumping rate.

33. Zones of Influence Maps means aerial photographs at scales determined by ERM showing the location on the ground of the outer limits of Zones of Influence for present and future public potable water supply wells and wellfields permitted for 100,000 gallons per day or more.

C. APPLICABILITY.

The provisions of this section shall be effective within the incorporated and unincorporated areas of Palm Beach County, Florida, and shall set restrictions, constraints and prohibitions to protect present and future public potable water supply wells and wellfields from degradation by contamination of deleterious substances.

1. **Permit and license issuance.** No building permit or occupational license for any nonresidential activity shall be issued by Palm Beach County or any city located within Palm Beach County that would allow development or construction in Zones One (1), Two (2), Three (3), or Four (4), that is contrary to the restrictions and provisions provided in this section. Permits or occupational licenses issued in violation of this section confirm no right or privilege on the grantee and such invalid permit or licenses will not vest rights.

2. **Effective date.** The requirements and provisions of this section shall apply immediately upon and after March 7, 1988 to all new nonresidential activities. An existing activity is one for which a building permit or occupational license had been issued by the appropriate jurisdiction prior to March 7, 1988 and which had not expired on or before March 7, 1988, or for which a completed building permit or occupational license application had been filed and accepted with the appropriate jurisdiction prior to March 7, 1988. All other activities shall be deemed "new."

3. **Time of review.** Any application for a building permit for a nonresidential development or residential development greater than twenty-five (25) units or nonresidential development subject to review by an advisory planning body and approval by the local governing authority or zoning board of appeals that includes property wholly or partially within Zone One (1), Two (2), Three (3), or Four (4), of a wellfield shall include requirements of ERM. These requirements shall be as follows:

   a. Notification by the local governing authority of the location of the property in Zone One (1), Two (2), Three (3), or Four (4) and notarized letter from applicant admitting acceptance of notification. Notification shall be prepared by ERM providing details of Zones, prohibitions, and measures required for compliance; or

   b. Submittal of application to ERM for notification.

4. **Certification of compliance.** Any application submitted for an occupational license for any use within Zone One (1), Two (2), Three (3), or Four (4) of an incorporated or unincorporated area shall require certification by ERM that the use meets the applicable requirements of this section. It shall be the duty of each local agency to screen all applications for Zone One (1), Two (2), Three (3), or Four (4) occupational licenses.

5. **Screening of Occupational License.** It shall be the duty of each local agency to screen all applications for Zone One (1), Two (2), Three (3) or Four (4) occupational licenses.

6. **Zone One (1) activities.** ERM shall provide a list to all local agencies of potentially prohibited operations in Zone One (1).

7. **Interdepartmental coordination.** Copies of building permits for residential uses containing more than twenty-five (25) units, all nonresidential projects, and all occupational licenses issued for Zone One (1), Two (2), Three (3), or Four (4) shall be submitted to ERM on a weekly basis, or upon issuance by the appropriate issuing authority.

D. EXEMPTIONS.

1. **General exemptions.** A general exemption application and an operating permit issued pursuant to the provisions of Sec. 9.3.E.3.(b) shall be filed with ERM for any nonresidential activity claiming a general exemption to these regulations under Sec. 9.3.D.1.d.(1), 9.3.D.1.3.(2) and 9.3.D.1.3.(6). No new nonresidential facilities shall be permitted into Zone One (1) after March 7, 1988 if the new nonresidential facility stores, handles, produces or uses any Regulated Substance.

   a. **Application.** A general exemption application shall contain a concise statement detailing the circumstances which the applicant believes would entitle him or her to a general exemption pursuant to Sec. 9.3.D.1.

   b. **Fee.** A Fee shall be required as established by the approved Fee Schedule.

   c. **Procedure.** Within thirty (30) working days of receipt of an application for a general exemption, ERM shall inform the applicant whether such application contains sufficient information for a proper determination to be made. If the application is found to be insufficient, then ERM shall provide to the applicant a written statement by certified mail or hand delivery requesting the additional information required. The applicant shall inform ERM within ten (10) working days of the date of the written statement of intent to either furnish the information or have the application processed as originally submitted. ERM shall have ninety (90) working days from the date that the sufficiency determination was rendered or the date of receipt of additional requested information to act upon the application.

d. General exemption activities and criteria.

(1) **Fire, Police, Emergency Medical Services and County Emergency Management Center Facilities.** Existing fire, police, emergency medical services and County emergency management center facilities are exempt from the Zone 1 prohibitions set forth in Sec. 9.3.E.3.a., provided that an operating permit for such uses is obtained pursuant to Sec. 9.3.F.2.a.

(2) **Utilities in Zone One (1).** Existing utilities as of July 25, 1991 shall be exempt, except for the maintenance and refueling of vehicles, from the Zone One (1) prohibitions set forth in Sec. 9.3.E.3.a, provided that an operating permit for such uses is obtained pursuant to Sec. 9.3.F.2.a.

(3) **Continuous transit.** The transportation of any Regulated Substance through Zones One (1), Two (2), Three (3) or Four (4) shall be exempt from the provisions of this section, provided that the transporting motor vehicle is in continuous transit. The transport of such substances through existing permanent pipelines is also exempt, provided that the currently authorized use or uses are not changed, and provided that leak detection and monitoring as approved by ERM are employed. No general exemption or operating permit application is required except that an operating permit is required to establish the leak detection and monitoring requirements for said existing pipelines. Any new pipelines constructed through Zones One (1), Two (2) or Three (3) and carrying regulated substances shall be provided with secondary containment, leak detection and monitoring as approved by ERM.

(4) **Vehicular and lawn maintenance fuel and lubricant use.** The use in a vehicle or lawn maintenance equipment of any Regulated Substance solely as fuel in that vehicle or equipment fuel tank or as a lubricant in that vehicle or equipment shall be exempt from the provisions of this section. No general exemption or operating permit application is required.

(5) **Application of pesticides, herbicides, fungicides, and rodenticides.** The application of those Regulated Substances used as pesticides, herbicides, fungicides, and rodenticide in recreation, agriculture, pest control and aquatic weed control activities shall be exempt from the provisions of this section provided that:

(a) In all Zones, the application is in strict conformity with the use requirement as set forth in the substances EPA registries and as indicated on the containers in which the substances are sold;

(b) In all Zones, the application is in strict conformity with the requirements as set forth in Chapter 482 and 487, Fla. Stat., and Chapters 5E-2 and 5E-9, F.A.C.;

(c) In all Zones, the application of any of the pesticides, herbicides, fungicides, and rodenticide shall be noted in the records of the certified operator. Records shall be kept of the date and amount of these substances applied at each location and said records shall be available for inspection at reasonable times by ERM;

(d) In Zones One (1), Two (2), Three (3), or Four (4), the pesticides, herbicides, fungicides, and rodenticide shall not be handled during application in a quantity exceeding seven hundred (700) gallons of formulation; and

(e) All nonresidential applicators of pesticides, herbicides, fungicides, and rodenticide who apply those substances in Zones One (1), Two (2), Three (3), or Four (4) shall obtain an operating permit covering all application operations using these materials under one (1) permit and shall comply with all the requirements of Sec. 9.3.E.3.b.(2)(c)-(f).

(6) **Retail/wholesale sales activities.** Retail/wholesale sales establishments in Zone One (1) that store and handle Regulated Substances for resale in their original unopened containers shall be exempt from the prohibition in Zone One (1), provided that those establishments obtain an operating permit pursuant to Sec. 9.3.E.2.a. Items in Secs. 9.3.E.3.b.(2)(g) and 9.3.E.3.b.(2)(h), certification by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida, and a bond or letter of credit as set forth in Sec. 9.3.F.2.d are not required for facilities in Zones One (1), Two (2) or Three (3), provided no individual container of Regulated Substances exceeds five (5) gallons, if liquid, or twenty-five (25) pounds, if solid.

(7) **Office uses.** Offices uses, except for the use of Regulated Substances for the maintenance and cleaning of office buildings, shall be exempt from the provisions of this section, and no general exemption or operating permit shall be required.

(8) **Construction activities.** The activities of constructing, repairing or maintaining any facility or improvement on lands within Zones One (1), Two (2), Three (3), or Four (4) shall be exempt from the provisions of this section, provided that all contractors, subcontractors, laborers, materialmen and their employees, when using, handling, storing or producing Regulated Substances in Zones One (1), Two (2), Three (3), or Four (4), use those applicable Best Management Practices set forth in Appendix 9.3.C., attached hereto and incorporated herein. No general exemption or operating permit applications are required.

(9) **Activities Subject to Regulation Due to Accumulation of Waste Regulated Substances.** Activities in Zone Two (2) or Three (3) which are subject to permitting requirements of the section shall obtain an Operating Permit pursuant to the provisions on Secs. 9.3.E.3.b, 9.3.E.3.b or 9.3.E.3.c. Items in Secs. 9.3.E.3.b.(2)(g) and 9.3.E.3.b.(2)(h) and a bond or letter of credit as set forth in Sec. 9.3.F.2.d are not required, provided that all waste liquid Regulated Substances are secondarily contained according to the conditions described in Sec. 9.3.E.3.b.(2)(a) and are removed from the site on a regular schedule by a contracted hauler licensed by EPA or the State of Florida to handle the waste Regulated Substances. The accumulated waste Regulated Substances shall at no time exceed fifty-five (55) gallons if liquid or two hundred twenty (220) pounds if solid, and the accumulation time shall not exceed ninety (90) days. Records of removal and disposal of all waste Regulated Substances through the licensed hauler shall be maintained and made available for Department inspection at reasonable times. In addition, all other Regulated Substances shall not exceed the threshold quantities identified in the definition of "Regulated Substances". Failure to comply with any of these requirements shall subject the facility to the full permitting provisions for the applicable zone.

2. **Special exemptions.** An affected person in Zone One (1), Zone Two (2) may petition the Environmental Ordinance Appeals Board for a Special Exemption from the prohibitions and monitoring requirements set out in Secs. 9.3.E.3.a. or 9.3.E.3.b, 9.3.E.3.b. Special exemptions for Zone One (1) are for existing nonresidential activities only. No new nonresidential activity shall be permitted in Zone One (1) after March 7, 1988 if the new nonresidential activity stores, handles, produces or uses any Regulated Substance.

a. **Criteria.** In order to obtain a special exemption, a person must demonstrate, by a preponderance of competent, substantial evidence, that:

(1) Special or unusual circumstances and adequate technology exists to isolate the facility or activity from the potable water supply; and

(2) In granting the special exemption, the Environmental Ordinance Appeals Board may prescribe any additional appropriate conditions and safeguards which are necessary to protect the wellfield.

b. **Procedures.** The following special exemption application and review procedures shall apply to activities claiming a special exemption with adequate technology to isolate the facility or activity from the potable water supply and protect the wellfield.

(1) **Application.** A special exemption application claiming special or unusual circumstances and adequate protection technology shall be filed with ERM, who shall then promptly notify the County Attorney's office that such an application has been filed. The application shall be signed by the applicant and Professional Engineer or Professional Geologist registered or licensed in the State of Florida.

(2) **Basis for application.** The application shall contain a concise statement by the applicant detailing the circumstances that the applicant feels entitles the applicant to special exemption, pursuant to this section.

(3) **Fee.** A Fee shall be required as established by the approved Fee Schedule.

(4) **Submittal requirements.** The application for special exemption shall contain but not be limited to the following elements:

(a) **Operating conditions.** A description of the situation at the site requiring isolation from the wellfield, including:

1) A list of the Regulated Substances in use at the site;
2) A site plan of the facility including all storage, piping, dispensing, shipping, etc., facilities;
3) What operations at the facility involve Regulated Substances which must be isolated from the wellfields;
4) The location of all operations involving Regulated Substances;
5) A sampling and analysis of the groundwater on the site of the activity seeking a special exemption shall be performed to determine if any Regulated Substances are already present which constitute a threat to the water supply;
6) An analysis of the affected well showing whether or not such well is already contaminated by any Regulated Substances and the extent of such contamination;
7) A hydrogeologic assessment of the site which shall address, as a minimum, soil characteristics and ground water levels, directional flow, and quality.

(b) **Technical components.** A technical proposal to achieve the required isolation including:

1) Components to be used and their individual functions;
2) System tying the components together;
3) A discussion and documentation, such as published technical articles, substantiating the performance and reliability of the components individually and the system as a whole. If the system has not been field tested, a discussion and laboratory test documentation to substantiate the proposed performance and reliability of the system;
4) Details of the specific plans to install the system at the site.

(c) **Testing procedures.** If the proposed system does not have a proven history of successful in-field operation, it may still be proposed using proven components. A test plan for the system as installed shall be provided to prove that the proposed system works in the field.

(d) **Backup detection.** A technical proposal for backup detection of Regulated Substances that may elude the isolation system and escape to outside a perimeter to be established by ERM. Such proposal shall include emergency measures to be initiated in case of escape of Regulated Substances.

(e) **Criteria for success.** Site-specific, system performance criteria shall be proposed to ascertain the success of the system. Such criteria shall include but shall not be limited to:

1) Performance;

2) Reliability;
3) Level of maintenance;
4) Level of Sensitivity to Regulated Substances;
5) Effect of rain, flood, power failure or other natural disaster.

(f) **Precautions in event of failure.** The applicant shall provide information on the on-site availability of substance removal technologies sufficient to remediate any introduction of Regulated Substances into the water table at the site. Where water is removed from on-site wells during the remedial process a plan shall be proposed for the disposal of such water.

(g) **Closure plan.** A closure plan shall be provided in the event the system does not prove successful in the testing required by Sec. 9.3.D.2.b.(4)(c).

(h) **Other information.** Any other reasonable information deemed necessary by Department due to site-specific circumstances.

(5) **Sufficiency review.** Within thirty (30) working days of receipt of an application for special exemption, ERM shall inform the applicant whether such application contains sufficient information for a proper determination to be made. If the application is found to be insufficient, then ERM shall provide to the applicant a written statement by certified mail or hand delivery requesting the required additional information. The applicant shall inform ERM within ten (10) working days of the date of the written statement of intent to either furnish the information or have the application denied. When the application contains sufficient information for a proper determination to be made, ERM shall notify the County Attorney's office that all documentation necessary to evaluate the special exemption has been received, and shall promptly transmit all such documentation to the County Attorney's office.

(6) **Action on application.** Any special exemption granted by the Environmental Ordinance Appeals Board shall be subject to the applicable conditions which apply to Zones One (1) and Two (2) and any other reasonable and necessary special conditions imposed by the Environmental Ordinance Appeals Board.

An operating permit shall be issued by ERM with the applicable conditions of Secs. 9.3.E.3.a and 9.3.E.3.b, 9.3.E.3.b. and any other reasonable and necessary special conditions imposed by the Environmental Ordinance Appeals Board. Such special exemptions shall be subject to revocation or revision by ERM for violation of any condition of said special exemption by first issuing a written notice of intent to revoke or revise (certified mail return receipt requested or hand delivery). Upon revocation or revision, the activity will immediately be subject to the enforcement provisions of this section.

E. ZONES OF INFLUENCE.

1. **Maps.** The Zones of Influence Maps, developed as described in Sec. 9.3.E.1.b, are incorporated herein and made a part of this Code. These Maps shall be on file and maintained by ERM.

   a. **Amendments.** Any amendments, additions or deletions to said Maps shall be approved by the Board of County Commissioners of Palm Beach County following written notice to property owners within the area covered by the amendment, addition, or deletion, and after public hearing. Written notice as provided herein shall be given at least thirty (30) days prior to the public hearing on the amendment, addition or deletion. Said maps shall be provided to any agency requesting said maps.

   b. **Basis.** The Zones of Influence Maps are based upon travel time contours and one (1) foot drawdown contours. They are generated using a contaminant transport computer model that simulates pollutant movement using particles released around wells in an inverted head/velocity field. The head/velocity field is calculated by using finite difference computer modeling techniques that incorporate the effects of an extensive canal system and Year 2010 build out pumpage rates. The pumping rates were determined by first projecting population figures for the Year 2010 for each public utility service area and multiplying this by a per capita consumption rate determined by the SFWMD and by consultation with public utilities regarding wellfield expansion and development.

   c. **Review.** The Zones of Influence Maps shall be reviewed at least on an annual basis. However, failure to conduct said review shall not affect the validity of the existing approved Maps. The basis for updating said Maps may include, but is not limited to, the following:

      (1) Changes in the technical knowledge concerning the applicable aquifer.
      (2) Changes in the pumping rate of wellfields.
      (3) Wellfield reconfiguration.
      (4) Designation of new wellfields.

   d. **Boundaries.** The Zones of Influence indicated on the Zones of Influence Maps are as follows:

      (1) **Zone One (1).** The land area situated between the well(s) and the thirty (30) day travel time contour.
      (2) **Zone Two (2).** The land area situated between the thirty (30) day and the two hundred ten (210) day travel time contours.
      (3) **Zone Three (3).** The land area situated between the two hundred ten (210) day and the five hundred (500) day travel time contours.
      (4) **Zone Four (4).** The land area situated beyond the five hundred (500) day travel time contour and within the one (1) foot drawdown contour.

   e. **Interpretation of boundaries.** In determining the location of properties and facilities within the zones depicted on the Zones of Influence Maps, the following rules shall apply:

      (1) Properties located wholly within one (1) Zone reflected on the applicable Zones of Influence Maps shall be governed by the restrictions applicable to that Zone.

(2) To that the extent Sec. 9.3.E.3 does not apply, properties having parts lying within more than one (1) Zone as reflected on the applicable Zones of Influence Maps shall be governed by the restrictions applicable to the zone in which the part of the property is located.

(3) Where a travel time contour which delineates the boundary between two (2) Zones of Influence passes through a facility, the entire facility shall be considered to be in the more restrictive zone.

(4) Where the facility, or portion thereof, is overlapped by Zones of Influence of different wells or wellfields, the stricter zones shall apply.

f. **Reference raw water analyses to be completed for each well.** A reference set of raw water analyses shall be completed for each well for which a Zone of Influence Map has been established. Said analyses shall be completed within one hundred eighty-five (185) days after March 7, 1988, for existing wells. A copy of the analytical report shall be forwarded to ERM and the PBCPHU within fourteen (14) days of completion. For any new well, this set of analyses shall be completed prior to the release of the well into service by the PBCPHU and ERM. Said analyses shall address inorganic priority pollutants as listed in Appendix 9.3.D. and organic pollutants as listed in Chapter 17-550 F.A.C. and as shown in Appendix 9.3.D. The cost shall be borne by the utility. The analytical reports shall be prepared by a State of Florida certified laboratory, certified for the applicable analyses. Samples shall be taken by the State certified laboratory performing the analyses, or its authorized representative.

2. **Protection of future wellfields.** The prohibitions and restrictions set forth in this section and in regulations promulgated pursuant hereto shall apply to any sites officially designated by the Board of County Commissioners as future wellfields. Such prohibitions and restrictions shall become effective upon approval by the Board of County Commissioners of the Zones of Influence Maps for the designated future wellfield. Prior to final action by the Board of County Commissioners in designating a future wellfield or approving the Zones of Influence Maps for those wellfields, all property owners and discernable operating activities within the area affected shall receive written notice at least thirty (30) days prior to the proposed public hearing at which the action shall be considered.

3. **Prohibitions and restrictions.**

a. **Zone one (1).**

(1) **Prohibited activities.** The use, handling, production, and storage of Regulated Substances associated with nonresidential activities is prohibited in Zone One (1), except as provided under the general exemptions and special exemptions provisions of this section.

(2) **Closure of existing uses.** All existing nonresidential activities within Zone One (1) which store, handle, use or produce any Regulated Substances shall cease to do so within one (1) year from the date of notification under this section, except as provided in this section. The owners or operators of such activities within Zone One (1) shall be notified in writing, by certified mail, or hand delivery by May 7, 1988 of the requirement to cease the use, handling, storage, and production of Regulated Substances if the activity is claimed to be exempted under the provisions of this section.

A closure permit application, general exemption application or a special exemption application prepared and signed by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida shall be submitted to ERM within one hundred and twenty (120) days receipt of the notice to cease. Within thirty (30) days of receipt of said notice, the owner or operator shall file with ERM proof of retention of said engineer or geologist.

Any nonresidential activity in Zone One (1) which is allowed to continue in accordance with the general exemption or special exemption provisions of this section shall obtain an operating permit, unless expressly not required by this section, which shall indicate the special conditions to be instituted and the dates on which such conditions shall be instituted. Such activities shall comply with all Zone Two (2) requirements unless otherwise provided herein. No expansions, modifications or alterations which would increase the storage, handling, use or production of Regulated Substances shall be permitted in Zone One (1). An owner or operator that is denied a special exemption shall be issued a closure permit as part of the denial process. Any operating permit application required herein shall be filed with the applications for general exemption or special exemption.

b. Zone Two (2).

(1) **Prohibited activities.** All nonresidential activities within Zone Two (2) which store, handle, use or produce any Regulated Substance are prohibited, unless they qualify as a general exemption, obtain a special exemption, or receive an operating permit from ERM.

(2) **Permit conditions.** An operating permit issued to any nonresidential activity within Zone Two (2) that stores, handles, uses or produces any Regulated Substance shall be subject to the following conditions:

(a) **Containment of regulated substances.** Leak-proof trays under containers, floor curbing or other containment systems to provide secondary liquid containment shall be installed. The containment shall be of adequate size to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any Regulated Substance loss to the external environment. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented. The owner/operator may choose to provide adequate and appropriate liquid collection methods rather than sheltering only after approval of the design by ERM. These requirements shall apply to all areas of use, production, and handling, to all storage areas, to loading and off-loading areas, and to above-ground and underground storage areas. The containment devices and liquid collection systems shall be certified in the operating permit application by the Professional Engineer or Professional Geologist registered or licensed in the State of Florida.

(b) **Emergency collection devices.** Vacuum suction devices, absorbent scavenger materials or other devices approved by ERM, shall be present on-site or available within two (2) hours (one hour in Zone One) by contract with a clean up company approved by ERM, in sufficient magnitude so as to control and collect the total quantity of Regulated Substances present. To the degree feasible, emergency containers shall be present and of such capacity as to hold the total quantity of Regulated Substances plus absorbent material. The presence of such emergency collection devices shall be certified in the operating

permit application for existing activities. Such certification for new activities shall be provided to ERM prior to the presence of Regulated Substances on the site. Certification shall be provided by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida.

(c) **Emergency plan.** An emergency plan shall be prepared and filed with the operating permit application indicating the procedures which will be followed in the event of spillage of a Regulated Substance so as to control and collect all such spilled material in such a manner as to prevent it from reaching any storm or sanitary drains or the ground.

(d) **Inspection.** A responsible person designated by the permittee who stores, handles, uses or produces the Regulated Substances shall check on every day of operation, for breakage or leakage of any container holding the Regulated Substances. Electronic sensing devices may be employed as part of the inspection process, if approved by ERM, and provided the sensing system is checked daily for malfunctions. The manner of daily inspection shall not necessarily require physical inspection of each container provided the location of the containers can be inspected to a degree which reasonably assures ERM that breakage or leakage can be detected by the inspection. Monitoring records shall be kept and made available to ERM at all reasonable times for examination.

(e) **Proper and adequate maintenance of containment and emergency equipment.** Procedures shall be established for quarterly, in-house inspection and maintenance of containment and emergency equipment. Such procedure shall be in writing; a regular checklist and schedule of maintenance shall be established; and a log shall be kept of inspections and maintenance. Such logs and records shall be available for inspection by ERM.

(f) **Reporting of spills.** Any spill of a Regulated Substance in excess of the non-aggregate quantity thresholds identified in the definition of "Regulated Substance" shall be reported by telephone to PBCPHU and designated public utility within one (1) hour, and to ERM within twenty-four (24) hours of discovery of the spill. Clean-up shall commence immediately upon discovery of the spill. A full written report including the steps taken to contain and clean up the spill shall be submitted to ERM within fifteen (15) days of discovery of the spill.

(g) **Monitoring for Regulated Substances in the potable water well.** Arrangements shall be made with the designated public utility to establish a semi-annual schedule of raw water analysis unless sampling results indicate contamination, in which case ERM shall require an increased sampling schedule. The analysis shall be for all substances which are listed on the operating permit. The analytical reports shall be prepared by a State of Florida certified laboratory, certified for the applicable analyses. It shall be the responsibility of the designated public utility to provide for the sampling and analyses but the cost shall be borne by the permittee or those permittees on a pro-rata basis as to the same substances listed on the permits of those permittees in Zones of Influence of the subject well. Samples shall be taken by the State certified laboratory performing the analyses, or its authorized representative.

Semi-annual reports prepared by a State of Florida certified laboratory of the analyses for Regulated Substances shall be submitted to ERM for the purpose of determining the presence of Regulated Substances in each well for which a Zone of Influence Map has been established.

(h) **Monitoring for Regulated Substances in groundwater monitoring wells.** Groundwater monitoring well(s) shall be provided at the expense of the permittee in a manner, number and location approved by ERM. Except for existing wells found by ERM to be adequate for this provision, the required well or wells shall be installed by a State of Florida licensed water well contractor. Samples shall be taken by the State certified laboratory performing the analyses, or its authorized representative. Analytical reports prepared by a State of Florida certified laboratory of the quantity present in each monitoring well of the Regulated Substances listed in the activity's operating permit shall be filed at least semi-annually, or more frequently, as determined by ERM, based upon site conditions and operations.

(i) **Alterations and expansion.** ERM shall be notified in writing prior to the expansion, alteration or modification of an activity holding an operating permit. Such expansion, alteration, or modification may result from increased square footage of production or storage capacity, or increased quantities of Regulated Substances, or changes in types of Regulated Substances beyond those square footages, quantities, and types upon which the permit was issued. Should a facility add new Regulated Substances which individually are below the non-aggregate limits identified in the definition of "Regulated Substance", it shall notify ERM on the annual basis of the types and quantities of such substances added and the location of the use, handling, storage, and production of said substances. Any such expansion, alteration or modification shall be in strict conformity with this section. Further, except as provided herein, any existing operating permit shall be amended to reflect the introduction of any new Regulated Substances resulting from the change. However, the introduction of any new Regulated Substance shall not prevent the revocation or revision of any existing operating permit if, in the opinion of ERM, such introduction substantially or materially modifies, alters or affects the conditions upon which the existing operating permit was granted or the ability to remain qualified as a general exemption, if applicable, or to continue to satisfy any conditions that have been imposed as part of a special exemption, if applicable. ERM shall notify the permittee in writing within sixty (60) days of receipt of the permittee's notice that ERM proposes to revoke or revise the permit and stating the grounds therefore.

(j) **Reconstruction after catastrophe.** Reconstruction of any portion of a structure or building in which there is any activity subject to the provisions of this regulation which is damaged by fire, vandalism, flood, explosion, collapse, wind, war or other catastrophe shall be in strict conformity with this section.

(k) **Revocation or revision for spill.** Within thirty (30) days of acquiring knowledge of any spill of a Regulated Substance, ERM shall consider revocation or revision of the permit. In consideration of whether to revoke or revise the permit, ERM may consider the intentional nature or the degree of negligence, if any, associated with the spill, the extent to which containment or cleanup is possible, the nature, number and frequency of previous spills by the permittee and the potential degree of harm to the groundwater and surrounding wells due to such spill.

(3) **Permits for existing uses.** All existing non-residential activities in Zone Two (2) which use, handle, store, or produce Regulated Substances shall file an application for an operating permit or closure permit within ninety (90) days of the receipt of written notice from ERM. Said permit application shall be prepared and signed by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida, except for Closure or Transfer Permits as provided in Secs. 9.3.F.2.b or 9.3.I. Within thirty (30) days of receipt of said notice, the owner or operator shall file with ERM proof of retention of said engineer or geologist. If application is made for an operating permit, such a permit shall be issued or denied within sixty (60) days of the filing of the completed application. If the application for an operating permit is denied, then the activity shall cease within one hundred eighty (180) days of the denial of the operating permit. All Regulated Substances and contaminated containers shall be disposed in a lawful and environmentally sound manner in accordance with applicable state and federal laws, and the activity and environs shall be cleaned up so as to preclude leaching of residual Regulated Substances into the environment.

c. Zone three (3).

(1) **Prohibited activities.** All nonresidential activities within Zone Three (3) which store, handle, use or produce any Regulated Substance are prohibited, unless they qualify as a general exemption or receive an operating permit from ERM.

(2) **Permit conditions.** An operating permit issued to any nonresidential activity within Zone Three (3) that stores, handles, uses or produces any Regulated Substance shall be subject to the following conditions:

(a) **Containment of regulated substances.** Leak-proof trays under containers, floor curbing or other containment systems to provide secondary liquid containment shall be installed. The containment shall be of adequate size to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any Regulated Substance loss to the external environment. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented. The owner/operator may choose to provide adequate and appropriate liquid collection methods rather than sheltering only after approval of the design by ERM. These requirements shall apply to all areas of use, production, and handling, to all storage areas, to loading and off-loading areas, and to above-ground and underground storage areas. The containment devices and liquid collection systems shall be certified in the operating permit application by the Professional Engineer or Professional Geologist registered or licensed in the State of Florida.

(b) **Emergency plan.** An emergency plan shall be prepared and filed with the operating permit application indicating the procedures which will be followed in the event of spillage of a Regulated Substance so as to control and collect all such spilled material in such a manner as to prevent it from reaching any storm or sanitary drains or the ground.

(c) **Inspection.** A responsible person designated by the permittee who stores, handles, uses or produces the Regulated Substances shall check on every day of operation, for breakage or leakage of any container holding the Regulated Substances. Electronic sensing devices may be employed as part of the inspection process, if approved by ERM, and provided the sensing system is checked daily for malfunctions. The manner of daily inspection shall not necessarily require physical inspection of each container provided the location of the containers can be inspected to a degree which reasonably assures ERM that breakage or leakage can be detected by the inspection. Monitoring records shall be kept and made available to ERM at all reasonable times for examination.

(d) **Proper and adequate regular maintenance of containment and emergency equipment.** Procedures shall be established for the quarterly in-house inspection and maintenance of containment and emergency equipment. Such procedure shall be in writing; a regular checklist and schedule of maintenance shall be established; and a log shall be kept of inspections and maintenance. Such logs and records shall be available for inspection by ERM.

(e) **Reporting of spills.** Any spill of a Regulated Substance in excess of the non-aggregate quantity thresholds identified in the definition of "Regulated Substance" shall be reported by telephone to the Palm Beach County Health Unit and designated public utility within one (1) hour, and to ERM within twenty-four (24) hours of discovery of the spill. Clean-up shall commence immediately upon discovery of the spill. A full written report including the steps taken to contain and clean up the spill shall be submitted to ERM within fifteen (15) days of discovery of the spill.

(f) **Revocation or revision for spill.** Within thirty (30) days of acquiring knowledge of any spill of a Regulated Substance, ERM shall consider revocation or revision of the permit to comply with some or all the conditions applicable to Zone Two (2), as set forth in Sec. 9.3.F.3.b.(2)(a)-(j), in addition to the Zone Three (3) conditions of Sec. 9.3.F.3.c.(2)(a)-(e). In consideration of whether to revoke or revise the permit, ERM may consider the intentional nature or the degree of negligence, if any, associated with the spill, the extent to which containment or cleanup is possible, the nature, number and frequency of previous spills by the permittee and the potential degree of harm to the groundwater and surrounding wells due to such spill.

(g) **Permit process.** Operating permits required by this section shall be applied for and processed in accordance with Sec. 9.3.E.3.b.(3) by filing an application for an operating permit or closure permit within ninety (90) days of the receipt of written notice from ERM. Said permit application shall be prepared and signed by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida. Within thirty (30) days of receipt of said notice, the owner or operator shall file with ERM proof of retention of said engineer or geologist. If application is made for an operating permit, such a permit shall be issued or denied within sixty (60) days of the filing of the completed application. If the application for an operating permit is denied, then the activity shall cease within one hundred eighty (180) days of the denial of the operating permit. All Regulated Substances and contaminated containers shall be disposed in a lawful and environmentally sound manner in accordance with applicable state and federal laws, and the activity and environs shall be cleaned up so as to preclude leaching of residual Regulated Substances into the environment.

d. Zone four (4).

(1) **Prohibited activities.** All nonresidential activities within Zone Four (4) which store, handle, use or produce any Regulated Substance are prohibited, unless they qualify as a general exemption or receive an operating permit from ERM.

(2) **Permit conditions.** An operating permit issued to any nonresidential activity within Zone Four (4) that stores, handles, uses or produces any Regulated Substance shall be subject to the following conditions:

(a) **Inspection.** A responsible person designated by the permittee who stores, handles, uses or produces the Regulated Substances shall check on every day of operation, for breakage or leakage of any container holding the Regulated Substances. Electronic sensing devices may be employed as part of the inspection process, if approved by ERM, and provided the sensing system is checked daily for malfunctions. The manner of daily inspection shall not necessarily require physical inspection of each container provided the location of the containers can be inspected to a degree which reasonably assures ERM that breakage or leakage can be detected by the inspection. Monitoring records shall be kept and made available to ERM at all reasonable times for examination.

(b) **Reporting of spills.** Any spill of a Regulated Substance in excess of the non-aggregate quantity thresholds identified in the definition of "Regulated Substance" shall be reported by telephone to PBCPHU and the designated public utility within one (1) hour, and to ERM within twenty-four (24) hours of discovery of the spill. Clean-up shall commence immediately upon discovery of the spill. A full written report including the steps taken to contain and clean up the spill shall be submitted to ERM within fifteen (15) days of discovery of the spill.

(c) **Revocation or revision for spill.** Within thirty (30) days of acquiring knowledge of any spill of a Regulated Substance, ERM shall consider revocation or revision of the permit to comply with some or all the conditions applicable to Zone Two (2), as set forth in Sec. 9.3.E.3.b, 9.3.E.3.b.(2)(a)-(j), in addition to those of Sec. 9.3.E.3.d.(2)(a),(b). In consideration of whether to revoke or revise the permit, ERM may consider the intentional nature or the degree of negligence, if any, associate with the spill, the extent to which containment or cleanup is possible, the nature, number and frequency of previous spills by the permittee and the potential degree of harm to the groundwater and surrounding wells due to such spill.

(d) **Permit process.** Operating permits required by this section shall be applied for and processed by filing an application for an operating permit or closure permit within ninety (90) days of the receipt of written notice from ERM. Said permit application shall be prepared and signed by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida. However, a nonresidential activity in Zone Four (4) is not required to retain an engineer or geologist to prepare the operating permit if the revocation for spill provisions of this section do not apply. Within thirty (30) days of receipt of said notice, the owner or operator shall file with ERM proof of retention of said engineer or geologist. If application is made for an operating permit, such a permit shall be issued or denied within sixty (60) days of the filing of the completed application. If the application for an operating permit is denied, then the activity shall cease within one hundred eighty (180) days of the denial and an application for a closure permit shall be filed with ERM within one hundred twenty (120) days of the denial of the operating permit. All Regulated Substances and contaminated containers shall be disposed in a lawful and environmental

sound manner in accordance with applicable state and federal laws, and the activity and environs shall be cleaned up so as to preclude leaching of residual Regulated Substances into the environment.

4. **Other requirements and liabilities.** A notice to cease, or a permit or exemption issued under this section shall not relieve the owner or operator of the obligation to comply with any other applicable federal, state, regional or local regulation, rule, ordinance or requirement. Nor shall said notice, permit, or exemption relieve any owner or operator of any liability for violation of such regulations, rules, ordinances or requirements.

5. **Requirements for domestic wastewater and stormwater treatment.**

   a. **Sanitary sewer mains.** All new or replacement installations of sanitary sewer mains in Zone One (1) or Zone Two (2) of a public drinking water wellfield shall be constructed to force main standards. Standards for installation are shown in Appendix 9.3.E. and shall be enforced by PBCPHU through the permit process. For new wells placed in areas of existing sanitary sewers, the sewers in Zone One (1) and Two (2) must be pressure tested at each joint, grouted and sealed with proof of testing provided to the PBCPHU prior to release of the well for service.

   b. **Exfiltration systems.** No new exfiltration system shall be constructed in Zone One (1) or Zone Two (2) of a public drinking water wellfield.

   c. **Retention/detention ponds.** New retention or detention ponds located within wellfield zones shall comply with the criteria described in the SFWMD Management and Storage of Surface Waters Permit Information Manual IV. These criteria are enforced through the SFWMD permitting process.

   d. **Percolation ponds.** New percolation ponds for domestic wastewater treatment located within wellfield zones shall comply with the requirements for separation from public drinking water wells set forth in Chapters 17-555 and 17-610, F.A.C., and enforced by DER and the PBCPHU.

   e. **Land application of domestic wastewater effluent.** Land application of domestic effluent or sludge within wellfield zones shall comply with the requirements for separation from public drinking water wells as set forth in Chapters 17-555, 17-610 and 17-640, FAC and enforced by and DER and the PBCPHU.

   f. **Onsite sewage disposal systems.** New onsite sewage disposal systems (septic tanks) located within wellfield zones shall comply with the requirements for maximum sewage loading and separation from public drinking water wells as set forth in Environmental Control Rule I and enforced by the PBCPHU.

6. **Spill assessment and remediation.** Upon discovery of a spill in a wellfield zone, a determination shall be made as to jurisdiction. ERM shall provide notification to the DER and PBCPHU including all available information pertinent to the spill. DER will be responsible for determination if the spill occurrence constitutes a Resource Conservation and Recovery Act (RCRA) regulated material as defined in Chapter 17-730, F.A.C. and Title 40 CFR Part 261. If determination is made that the spill occurrence involves a RCRA regulated material, FDER will assume the role as lead regulatory agency in assessment and remediation. ERM will assume the role as lead agency if determination reveals a non-RCRA regulated substance.

   Upon issuance of an order by ERM, corrective action shall immediately be initiated by the responsible person. Failure to initiate corrective action shall be a violation of this section. Corrective action shall include any or all of the following:

   a. Cessation of the discharge and initial control, containment and recovery of free-flowing, floating or standing pollutants;

   b. Removal and disposal of contaminated soils, sediments, vegetation, containers, recovery and other contaminated materials in accordance with applicable Federal, State and local regulations;

   c. Assessment of the horizontal and vertical extent of soil, sediment, surface water and groundwater contamination, as well as rate and direction of migration of the contaminants;

   d. Remediation of contaminated soils, sediments, surface water and groundwater to preclude further migration of unacceptable levels of residual Regulated Substances into or through the surface water or groundwater environment.

      ERM shall determine necessary, reasonable measures and time frames for corrective action. The corrective action shall be completed to the satisfaction of ERM. Where State or Federal regulations establish procedures or cleanup levels for corrective action for particular discharges, the corrective action shall at a minimum comply with those procedures and cleanup levels. Completion of corrective action as specified by ERM shall not relieve the responsible person or persons of liability under any other applicable Federal, State or local regulation, rule, ordinance or requirement; nor shall it relieve the responsible person or persons of liability for corrective actions for conditions which were previously unknown to ERM, or which resulted from implementation of corrective action as required.

F. WELLFIELD PROTECTION (OPERATING AND CLOSURE PERMITS).

The following provisions provide the requirements and procedures for the issuance of operating and closure permits required by this section.

1. General.

   a. An application which satisfies the requirements of the applicable Zone of Influence and Sec. 9.3.F.2 for Operating Permits and, if applicable, Sec. 9.3.D.1 for General Exemptions and Sec. 9.3.G.3 for Appeals, shall be approved and a permit issued. In addition to the failure to satisfy these requirements, ERM may deny a permit based on repeated violations of this section.

b. An operating permit shall remain valid provided the permittee is in compliance with the terms and conditions of the permit.

c. Permittees shall be required to pay annual permit renewal fees beginning October 1, 1990. Beginning October 1, 1990, all current and future permittees are subject to an annual permit renewal fee as established by the approved Fee Schedule. Notification to ERM under Sec. 9.3.E.3.b.(2)(i) is due with the renewal fee.

d. ERM shall have the right to make inspections of facilities at reasonable times to determine compliance with this section.

e. All of the facilities owned and/or operated by one person when these structures and activities are located on contiguous parcels of property even where there are intervening public or private roads, may be covered under one (1) permit.

2. Applications.

a. **Operating permit.** All applications for operating permits shall, at the minimum, provide the following information:

(1) A list of all Regulated Substances and substances on the Generic Substance List which are to be stored, handled, used or produced in the nonresidential activity being permitted including their quantities.

(2) A detailed description of the nonresidential activities that involve the storage, handling, use or production of the Regulated Substances indicating the unit quantities in which the substances are contained or manipulated including lay out plans or drawings of the facility in which the activities will take place.

(3) A description of the containment, the emergency collection devices, containers and emergency plan that will be employed to comply with the restrictions required for Zone Two (2) and Three (3) as set forth above. For Zone Four (4) this particular documentation will only be required if a permit revision is required pursuant to Sec. 9.3.E.3.d.(2)(c).

(4) A description of the daily monitoring activities that have been or will be instituted to comply with the restrictions for Zone Two (2), Three (3), and Four (4) as set forth above in Sec. 9.3.E.3.b, 9.3.E.3.b(2)(d).

(5) A description of the maintenance that will be provided for the containment facility, monitoring system and emergency equipment required to comply with the restrictions of Zone Two (2) and Three (3) as set forth above. For Zone Four (4) this particular documentation will be required if a permit revision is required pursuant to Sec. 9.3.E.3.d.(2)(c).

(6) A description of the groundwater monitoring wells that have been or will be installed, other pertinent well construction information, and the arrangements which have been made or which will be made for certified analyses for specified Regulated Substances. For Zones Three (3) and Four (4) this particular documentation will only be required for a revised operating permit as required under Secs. 9.3.E.3.c.(2)(f), 9.3.E.3.d.(2)(c), or 9.3.L.3.

(7) Evidence of arrangements made with the appropriate designated public utility for sampling analysis of the raw water from the potable water well. For Zones Three (3) and Four (4) this particular documentation will only be required for a revised operating permit as required under Secs. 9.3.E.3.c.(2)(f), 9.3.E.3.d.(2)(c), or 9.3.L.3.

(8) An agreement to indemnify and hold Palm Beach County harmless from any and all claims, liabilities, causes of action, or damages arising out of the issuance of the permit. The County shall provide reasonable notice to the permittee of any such claims. Operating permit that is required to be revised.

(9) The application for the operating permit shall be filed with ERM within ninety (90) days of receipt of written notification from ERM.

b. Closure permit. Closure permit applications shall contain the following information:

(1) A schedule of events to complete the closure of an activity that does or did store, handle, use, or produce Regulated Substances. As a minimum, the following actions shall be addressed:

(a) Disposition of all Regulated Substances and contaminated containers.

(b) Cleanup of the activity and environs to preclude leaching of unacceptable levels of residual Regulated Substances into the aquifer.

(c) Certification by a Professional Engineer or Professional Geologist registered or licensed in the State of Florida that disposal and cleanup have been completed in a technically acceptable manner. The requirement for certification by a Professional Engineer or Geologist may be waived if the applicant provides evidence to ERM that all of the following items are applicable:

1) The entire operation is maintained inside the building(s) of the facility.

2) The standard method of removing operating waste is not by septic tank, sewer mains, or floor drains.

3) There is no evidence of spills permeating floors or environs.

4) There are no outstanding or past notices of violation from any regulatory agency concerned with hazardous, industrial or special waste.

5) There is no evidence of past contamination in the public drinking water well(s) associated with the facility in Zone 1.

6) The applicant shall provide a sworn statement that disposal and cleanup have been completed in a technically acceptable manner.

(d) An appointment for an inspection by ERM.

(e) An agreement to indemnify and hold Palm Beach County harmless from any and all claims, liabilities, causes of action, or damages arising out of the issuance of the permit. The County shall provide reasonable notice to the permittee of any such claims.

(2) The issue of well reconfiguration shall be evaluated by ERM and the affected public utility as an alternative to a closure permit during the permit application process. Should a utility notify ERM in writing that it intends to reconfigure a wellfield and said configuration no longer subjects a facility to Zone One (1) or Zone Two (2) requirements, ERM may issue an operating permit providing conditions under which said facility may continue to operate.

(3) The DER and the PBCPHU shall be advised in writing of each closure permit application.

c. Permit conditions. The permit conditions shall ensure compliance with all the prohibitions, restrictions, and requirements as set forth in this section. Such conditions may include, but not be limited to, monitoring wells, periodic groundwater analysis reports, and compliance schedules. Said conditions may also include requirements in a closure permit to reduce the risk in the interim of contamination of the groundwaters, taking into account cost, likely effectiveness and degree of risk to the groundwater.

d. Bond required. Except as provided in Sec. 9.3.F.2.d.(5), no permit herein required shall be issued unless there is filed at the time of application, except in the case of an application by a political subdivision or agency of the State, a cash bond, permit bond with a corporate surety, or letter of credit in the amount specified in Appendix 9.3.C. attached hereto and incorporated herein.

(1) The permittee will operate its nonresidential activities and/or closure of such nonresidential activities, as applicable, in accordance with the conditions and requirements of this section and permits issued hereunder.

(2) The permittee shall reimburse Palm Beach County in accordance with Secs. 9.3.F.2.a.(8), 9.3.F.2.b.(1)(e) and 9.3.F.2.e for any and all expenses and costs that Palm Beach County incurs as a result of the permittee failing to comply with the conditions and requirements of this section.

(3) Before a bond or letter of credit is accepted by ERM as being in compliance with this section, the bond or letter of credit shall be reviewed and approved by the Palm Beach County Attorney's Office. A corporate bond shall be executed by a corporation authorized to do business in the State of Florida as a Surety. A cash bond shall be deposited with ERM, who shall give receipt therefore.

(4) The bond or letter of credit required by this section shall be kept in full force and effect for the term of the permit and for one-year after voluntary cessation of activities permitted hereunder, expiration, or revocation of the permit.

(5) No bond or letter of credit is required for issuance of a permit for the following:

(a) Pesticide applicators, unless the pest control facility is located in Wellfield Zone One (1), Two (2), or Three (3).

(b) Closure of a facility, provided that the conditions listed in Sec. 9.3.F.2.b.(1)(c) for waiver of certification by an engineer or geologist are applicable.

(c) A facility in Zone Four (4), unless ERM has determined that a revision of the permit is appropriate under conditions described in Secs. 9.3.E.3.d.(2)(c) or 9.3.L.3.

(d) Retail/wholesale activities which meet the conditions for this exemption set forth in Sec. 9.3.D.1.d.(6).

(e) Activities subject to regulation due to the accumulation of waste Regulated Substances, provided that they comply with the conditions for this exemption set forth in Sec. 9.3.D.1.d.(9).

e. Clean-up and reimbursement. Any person subject to regulation under this section shall be liable with respect to Regulated Substances emanating on or from the person's property for all costs of removal or remedial action incurred by Palm Beach County and damages for injury to, destruction of, or loss of natural resources, including the reasonable cost of assessing such injury, destruction or loss resulting from the release or threatened release of a Regulated Substances as defined in this section. Such removal or remedial action by Palm Beach County may include, but is not limited to, the prevention of further contamination of groundwater, monitoring, containment, and clean-up or disposal of Regulated Substances resulting from the spilling, leaking, pumping, pouring, emitting or dumping of any Regulated Substance or material which creates an emergency hazardous situation or is expected to create an emergency hazardous situation.

[Ord. No. 93-4]

G. APPEALS.

1. **Matters for review and time for filing.** Any person may appeal to the Environmental Ordinance Appeals Board for the following reasons:

   a. To appeal ERM's permit conditions, denial of a permit, general exemption or non-disclosure of a trade secret.

   b. To appeal an intent to revoke or revise an Operating permit and a General or special exemption.

   c. To request a special exemption.

2. **Time for filing.** Written petitions for review shall be filed with the Clerk of the County Attorney's Office within twenty (20) days of the date upon which the petitioner receives notice of ERM's actions with respect to Sec. 9.3.G.1.a or intended action with respect to Sec. 9.3.G.1.b. Failure to file within such time shall constitute a waiver of the person's right of review by the Environmental Ordinance Appeals Board. The filing of a petition authorized by this section shall stay all proceedings with respect to all matters that are contained in the petition until there is a final decision of the Environmental Ordinance Appeals Board.

3. **Review.** The decision of the Environmental Ordinance Appeals Board shall be final administrative action on behalf of ERM and Palm Beach County. Any person who is a party to the proceeding before the Environmental Ordinance Appeals Board may appeal such action by filing a petition for writ of certiorari in the Fifteenth Judicial Circuit, in and for Palm Beach County, Florida.

H. PETITION FOR COMPENSATION.

Parties affected by the requirements of this section may petition the Board of County Commissioners for a determination of the effect of said requirements on those activities and the issue of compensation.

1. **Filing.** A petition for compensation shall be filed with ERM.

2. **Contents of petition.** A petition for compensation shall contain, as applicable, the following:

   a. A copy of the closure permit required by this section or the required operating permit showing the change in operation.

   b. An analysis of the need to cease, move, or change operations including a summary of alternatives investigated and estimated costs of those alternatives.

   c. A list of all previously-issued notices of violation by ERM, Department of Environmental Regulation or the Environmental Protection Agency regarding use of Regulated Substances including a description of any corrective action taken or pending.

   d. Detailed specification of the amount for which compensation is being requested.

e. ERM shall review all petitions for compensation and make recommendations to the Board of County Commissioners regarding the reasonableness of any amounts requested by the petitioner, whether the requested compensation consists of amounts greater than the cost of any reasonable facility/operation modifications and whether the facility may potentially qualify for a special exemption. Based upon such recommendations, the Board of County Commissioners may deny such petition.

3. **Hearing on petition.** As soon as practicable after submission of a petition for compensation, but no later than ninety (90) days, by an owner or operator of an activity, the Board of County Commissioners shall hold a hearing to determine the eligibility of the activity for compensation pursuant to this section. Petitioner shall be given written notice by certified mail or hand delivery of such hearing at least thirty (30) days prior to the hearing. Formal Rules of Evidence shall not apply to such hearing, but fundamental due process shall be observed and shall govern the proceedings. Petitioner and the County shall have the right to:

   a. Call and examine witnesses;

   b. Introduce exhibits;

   c. Cross-examine witnesses on any relevant matter;

   d. Rebut the evidence; and

   e. Be represented by Counsel.

4. **Review and evaluation criteria.**

   a. **Cessation or move.** In determining whether the petitioner is eligible for compensation for cessation or moving, the Board of County Commissioners shall consider:

      (1) Whether a reasonable, cost effective alternative to cessation or moving of operations exists for complying with this section, including reconfiguring of the wellfield. Applicant, with the cooperation of ERM and the affected public utility, shall address the issue of reconfiguration;
      (2) Whether the requirements of this section were the sole reason for cessation of the operation;
      (3) Past environmental record;
      (4) Efforts to mitigate financial impact of this section and these corresponding regulations.

   b. **Change in operations.** In deciding whether a petitioner is eligible for compensation for a change in operations, the Board of County Commissioners shall consider:

      (1) Whether the proposed change is a reasonable, cost effective method for complying with this section; and
      (2) Whether the requirements of this section were the sole reason for the change in the operation.

5. Classes of impact for which compensation may be granted.

a. Actual reasonable relocation expenses.

(1) The owner or operator of an affected activity may be paid the actual reasonable cost of a relocation within Palm Beach County. Such amount to include the cost of:

(a) dismantling operation;
(b) actual moving;
(c) reassembling equipment;
(d) installation of equipment;
(e) internal connection of utilities to equipment;
(f) minor modification of site to accommodate operation, specifically excluding structural changes to the building or paving and drainage requirements at the site;
(g) the additional costs which would have to be incurred to move the activity due to changed circumstances or applicable laws, ordinances or regulations;
(h) any losses caused by the necessity of terminating a lease, such compensation not to exceed three (3) months' rent. Landlord and tenant are required to make a bona fide effort to mitigate this loss. This compensation shall be paid to either the landlord or the tenant, to be decided by agreement between the landlord and tenant.

(2) **Documentation of costs.** The eligible costs for actual reasonable relocation expenses shall be supported by two (2) itemized and sealed bids and a detailed listing of the claimed items. The amount to be paid shall not exceed the lower of the two (2) bids. In order to verify such information, ERM shall have the right to enter the activity's premises at reasonable times. Such bids and detailed listing of the cost shall be verified by ERM.

(3) **Self-moves.** In the case of a self-move the owner of a relocated activity may be paid the lower of two (2) sealed and itemized bids from licensed moving companies based on a detailed listing of the cost.

b. Actual reasonable modification of operation expenses. The owner or operator of an affected activity may be paid the actual reasonable expense to modify the operation of the activity in order to comply with this section. Such amount to include cost of:

(1) modification of machinery;
(2) dismantling and moving unusable machinery;
(3) unsalvageable inventory per Sec. 9.3.H.5.c;
(4) moving equipment out of a Zone One (1) on the activity's property per Sec. 9.3.H.5.a.

c. Actual direct losses of tangible personal property. Actual direct losses of tangible personal property are allowed when a person closes or relocates an activity. Payment may only be made after a diligent effort is made by the owner to sell the item(s) involved.

(1) If the activity is to be re-established and an item of property to be used therewith is not moved but promptly replaced with a comparable item at the new site, reimbursement shall be either:

(a) Replacement cost, taking into account depreciation, less the proceeds of the sale. Present value based on accepted standards in the related business community may be substituted for net proceeds of a sale where applicable, or

(b) Estimated cost of moving the item to the replacement site within the geographic boundaries of Palm Beach County.

(2) If a process at the activity is being discontinued or an existing item is not to be replaced in a re-established business, payment will be either:

(a) The difference between fair market value as evidenced by two (2) written appraisals of the item for continued use at its prior location less its net proceeds at the sale, or

(b) The estimated cost of moving the item to the replacement site within the geographic boundaries of Palm Beach County.

(3) If a sale is not effected because no offer is received and the item is abandoned, payment for the loss may be its fair market value for continued use at its existing location plus the costs of the attempted sale, less the equipment's salvage value.

d. **In lieu of actual moving expenses.** In lieu of the payments described in Secs. 9.3.H.5.a, 9.3.H.5.b. and 9.3.H.5.c, an owner of a discontinued activity may be eligible to receive a payment equal to seventy-five (75) percent of the estimated reasonable cost of moving the activity within Palm Beach County, except that such payment shall not be more than the lower of two (2) sealed and itemized bids, provided the following requirements are met:

(1) For the owner of an affected activity to be entitled to this payment, the County or its designee must determine that the business cannot be relocated without a substantial loss of its existing patronage. Such determination shall be made by the County or its designee only after consideration of all pertinent circumstances, including but not limited to the following factors:

(a) The type of business conducted by the displaced activity.

(b) The nature of the clientele of the displaced activity.

(c) The relative importance of the present location to the displaced activity.

(d) The additional costs which would have to be incurred to move the activity due to changed circumstances or applicable laws, ordinances, or regulations.

(2) For the owner or operator of an affected activity to be entitled to his or her payment, information must be provided to support the estimated moving costs. Such proof shall consist of two (2) sealed bids from licensed moving companies based on a detailed inventory of the items which would be moved.

e. **Exclusions on moving expenses and losses.** The following expenses are considered ineligible for payment as "actual" moving expenses:

(1) Additional expenses incurred because of moving to and living in a new location including search cost for finding a new dwelling.

(2) Cost of moving structures, improvements or other real property in which the displaced activity reserved ownership.

(3) Significant changes in building structure but not including minor electrical, plumbing or carpentry work.

(4) Cost of improvement to activity made after such activity was on notice that it is affected by this section and would have to cease or alter an operation in Zone One.

(5) Interest on loans to cover moving expenses.

(6) Loss of goodwill.

(7) Loss of business or profits or both.

(8) Loss of trained employees.

(9) Cost of preparing the petition for compensation.

f. **Payment and release of obligation.** Palm Beach County shall disperse eighty-five (85) percent of the compensation to be paid as determined by the Board of County Commissioners in advance of any move or change of operation. Palm Beach County shall retain fifteen (15) percent of the monies authorized as compensation for economic impact of this section until such time as the affected activity has carried out the procedures outlined in its petition for compensation and provides evidence of such expenditures. Upon receipt of payment of compensation as provided in this section, the recipient shall execute a release in favor of Palm Beach County from any further obligation to the recipient with regard to the economic impact of this section on the recipient or activity.

I. TRANSFERS AND CHANGES IN OWNERSHIP.

In the event, there is a change of ownership, a new lease, or an assignment of a lease, a sublease or any other change in regard to the person conducting the operation regulated, ERM shall be notified and upon payment of the appropriate fee and completion of processing of an application by ERM, the Wellfield Protection operating permit shall be transferred.

J. TRADE SECRETS.

ERM shall not disclose any trade secrets of the applicant or permittee that are exempted from such disclosure by Federal or State law; provided, however, the burden shall be on the applicant or permittee to demonstrate entitlement to such nondisclosure. Decisions by ERM as to such entitlement shall be subject to challenge by the applicant or permittee by filing a petition with the Environmental Ordinance Appeals Board pursuant to Appeals provisions of this section.

K. FEES.

1. **Filing fee.** All applicants for a wellfield protection operating or closure permit shall pay a non-refundable filing fee as established by the approved Fee Schedule. The fee shall be provided at the time of acceptance of the permit application.

2. **Wellfield protection operating permit fee.** The fee for a wellfield operating permit including any permit obtained pursuant to the general exemptions set forth in Sec. 9.3.D.1 of this section as established by the approved Fee Schedule. The operating fee shall be used to defray the cost of administering this section.

3. **Closure permit fee.** The fee for a closure permit under this regulation shall be one-half (1/2) of the fee for the wellfield protection operating permit as established by the approved Fee Schedule.

4. **Permit transfer fee.** The fee for transfer of an operating permit or closure permit shall be as established by the approved Fee Schedule and incorporated herein to defray the cost of processing the transfer. Application for Transfer of Permit is to be made within sixty (60) days of transfer of ownership of the activity.

5. **Special exemption fee.** A Fee shall be required for any person seeking a special exemption as established by the approved Fee Schedule.

6. **General exemption fee.** A Fee shall be required for any person seeking a general exemption as established by the approved Fee Schedule.

7. **Annual permit renewal fee.** The fee for annually renewing the permit established by the approved Fee Schedule, shall be used to defray the cost of administering this section. Beginning October 2, 1990, all permittees shall pay an annual permit renewal fee for each permitted facility.

8. **Late fee.** A late fee as established by the approved Fee Schedule, shall be paid to ERM if the application for permit or renewal is late.

[Ord. No. 93-4]

L. REVOCATION AND REVISION OF PERMITS AND EXEMPTIONS.

1. **Revocation.** Any permit issued under the provisions of this section shall not become vested in the permittee. ERM may revoke any permit issued by it by first issuing a written notice of intent to revoke (certified mail return receipt requested, or hand delivery) if it finds that the permit holder:

   a. Has failed or refused to comply with any of the provisions of this section, including but not limited to permit conditions and bond requirements of Sec. 9.3.F.2.d. herein; or

   b. Has submitted false or inaccurate information in this application; or

   c. Has failed to submit operational reports or other information required by this section; or

   d. Has refused lawful inspection under Sec. 9.3.F.1.d; or

   e. Is subject to revocation under Secs. 9.3.E.3.b.(2)(k), 9.3.E.3.c.(2)(f), 9.3.E.3.d.(2)(c), or 9.3.L.3.

2. **Revision.** ERM may revise any permit pursuant to Secs. 9.3.E.3.b.(2)(k), 9.3.E.3.c.(2)(f), or 9.3.E.3.d.(2)(c) first issuing a written notice of intent to revise (certified mail return receipt requested, or hand delivery).

3. **Spills.** In addition to the provisions of Secs. 9.3.E.3.b.(2)(k), 9.3.E.3.c.(2)(f), or 9.3.E.3.d.(2)(c), within thirty (30) days of acquiring knowledge of any spill of a Regulated Substance in a wellfield zone, ERM shall consider revocation or revision of the permit. Upon such consideration, ERM may issue a notice of intent to revoke or revise, which shall be subject to the appeal provisions of this section, or elect not to issue such notice. In consideration of whether to revoke or revise the permit, ERM may consider the intentional nature or degree of negligence, if any, associated with this spill, and the extent to which containment or cleanup is possible, the nature, number and frequency of previous spills by the permittee and the potential degree of harm to the groundwater and surrounding wells due to such spill.

4. **Revocation of exemptions.** For any revocation or revision by ERM of a special exemption or general exemption that requires an operating permit as provided under the terms of this section, ERM shall issue a notice of intent to revoke or revise which shall contain the intent to revoke or revise both the applicable exemption and the accompanying operating permit.

5. **Notice.** The written notice of intent to revoke or revise shall contain the following information:

   a. The name and address of the permittee, if any, and property owner, if different.

   b. A description of the facility which is the subject of the proposed revocation or revision.

   c. Location of the spill, if any.

   d. Concise explanation and specific reasons for the proposed revocation or revision.

   e. A statement that "Failure to file a petition with the Clerk of the Board within twenty (20) days after the date upon which permittee receives written notice of the intent to revoke or revise shall render the proposed revocation or revision final and in full force and effect."

6. **Appeals.** Failure of permittee to file a petition in accordance with the appeal provisions of this section shall render the proposed revocation or revision final and in full force and effect.

7. **Other remedies.** Nothing in this section shall preclude or be deemed a condition precedent to ERM seeking a temporary or permanent injunction.

M. VIOLATIONS, ENFORCEMENT AND PENALTIES.

Failure to comply with the requirements of this section or any permit, exemption, or approval granted or authorized hereunder shall constitute a violation of this section. Violations of the provisions of this section shall upon conviction, be punished by a fine not to exceed five hundred dollars ($500) per violation per day or by imprisonment in the county jail not to exceed sixty (60) days, or by both fine and imprisonment pursuant to the provisions of Sec. 125.69, Fla. Stat. Such violations may be deemed a separate offense for each day during any portion of which any violation is committed or continued. In addition to the sanctions contained herein, the County may take any other appropriate legal action, including but not limited to, administrative action and requests for temporary and permanent injunctions, to enforce the provisions of this section. It is the purpose of this section to provide additional cumulative remedies.

N. GROUNDWATER AND NATURAL RESOURCES PROTECTION BOARD.

The Groundwater and Natural Resources Protection Board shall hear violations of this section if there has been a failure to correct a violation or if the same violation has been repeated. Violations of this section may be referred by ERM to the Groundwater and Natural Resources Protection Board for corrective actions and civil penalties.

O. PALM BEACH COUNTY POLLUTION RECOVERY TRUST FUND.

Funds collected pursuant to administrative penalties levied by the Groundwater and Natural Resources Protection Board for violations of this section shall be deposited in the Palm Beach County Pollution Recovery Trust Fund.

Appendix 9.3.A.

Generic Substances List

Acid and basic cleaning solutions
Antifreeze and coolants
Arsenic and arsenic compounds
Bleaches, Peroxides
Brake and transmission fluids
Brine solution
Casting and Foundry chemicals
Caulking agents
Cleaning solvents
Corrosion and rust prevention solutions
Cutting fluids
Degreasing and parts cleaning solvents
Disinfectants
Electroplating solutions
Explosives
Fertilizers
Fire Extinguishing chemicals
Food processing wastes
Formaldehyde
Fuels and additives
Glues, adhesives and resins
Greases
Hazardous waste
Hydraulic fluid
Indicators

Appendix 9.3.A.

Generic Substances List (cont'd)

Industrial and commercial janitorial supplies
Industrial process chemicals
Industrial sludges and stillbottoms
Inks, printing and photocopying chemicals
Laboratory chemicals
Liquid storage batteries
Medical, pharmaceutical, dental, veterinary and hospital solutions
Mercury and mercury compounds
Metals finishing solutions
Oils
Paints, primers, thinners, dyes, stains, wood preservatives, varnishing and cleaning compounds
Painting solvents
PCBs

Pesticides and herbicides
Plastic resins, plasticizer and catalysts
Photo development chemicals
Poisons
Polishes
Pool chemicals
Processed dust and particulates
Radioactive sources
Reagents and standards
Refrigerants
Roofing chemicals and sealers
Sanitizers, disinfectants, bactericides and algaecides
Soaps, detergents and surfactants
Solders and fluxes
Stripping compounds
Tanning industry chemicals
Transformer and capacitor oils/fluids
Waste oils and antifreeze
Water and wastewater treatment chemicals

Note: Substances in this table may be adjusted by ERM.

Appendix 9.3.B.
Operating and Closure Permit Bonds*

	Zone 1	Zone 2	Zone 3
Cash bond	$20,000	$10,000	$5,000
Permit Bond With Corporate Surety	$20,000	$10,000	$5,000
Letter of Credit	$20,000	$10,000	$5,000

* Note: Amounts reflected in this table are for each Operating and Closure Permit issued and may be adjusted by ERM.

Appendix 9.3.C.

"Best Management Practices" for the Construction Industry

A. The general Contractor, or if none, the property owner, shall be responsible for assuring that each contractor or subcontractor evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for the handling of any Regulated Substances. For instance, handling Regulated Substances in the proximity of water bodies or wetlands may be improper.

B. If any regulated substances are stored on the construction site during the construction process, they shall be stored in a location and manner which will minimize any possible risk of release to the environment. Any storage container of 55 gallons, or 440 pounds, or more containing Regulated Substances shall have constructed below it an impervious containment system constructed of materials of sufficient thickness, density and composition that will prevent the discharge to the land, groundwaters, or surface waters, of any pollutant which may emanate from said storage container or containers. Each containment system shall be able to contain 150% of the contents of all storage containers above the containment system.

C. Each contractor shall familiarize him/herself with the manufacturer's safety data sheet supplied with each material containing a Regulated Substance and shall be familiar with procedures required to contain and clean up any releases of the Regulated Substance. Any tools or equipment necessary to accomplish same shall be available in case of a release.

D. Upon completion of construction, all unused and waste Regulated Substances and containment systems shall be removed from the construction site by the responsible contractor and shall be disposed of in a proper manner as prescribed by law.

Appendix 9.3.D.

ORGANIC PRIORITY POLLUTANTS

endrin
lindane (g-BHC)
methoxychlor
toxaphene
2, 4-D
2, 4, 5-TP
bromodichloromethane
dibromochloromethane
bromoform
chloroform

trichloroethene
tetrachlorethene
carbon tetrachloride
vinyl chloride
1, 1, 1-trichloethane
1, 2-dichloroethane
benzene
ethylene dibromide
p-chlorobenzene
1, 1-dichloroethene
styrene
m-dichlorobenzene
o-dichlorobenzene
1, 2-dibromo-3-chloropropane (DBCP)

bromobenzene
bromomethane
chlorobenzene
chloroethane
p-chlorotoluene
chloromethane
dibromomethane
dichlorodifluoromethane
1,1-dichloroethane
trans-1, 3-dichloropropene
cis-1, 2-dichloroethane
1, 2-dichloropropane
1, 3-dichloropropane
2, 2-dichloropropane
cis-1, 3-dichloropropane
ethylbenzene
methylene chloride
1, 1, 2-trichloroethane
trichlorofluoromethane
1, 2, 3-trichloropropane
toluene
m-xylene
o-xylene
p-xylene
bis(2-ethylhexyl) phthalate

1, 1, 1, 2-tetrachloroethane
1, 1, 2, 2-tetrachloroethane
methyl tert-butyl-ether (MTBE)
1, 1-dichloropropene
o-chlorotoluene

aldrin
chloradane
dieldrin
heptachlor
aldicarb
aldicarb sulfoxide
aldicarb sulfone
dalapon
carbofuran
oxymyl
simizine
atrazine

butyl benzyl phthalate
di-n-butylphthalate
diethylphthalate
dimethylphthalate
2, 4-dinitrotoluene
dioctylphthalate
hexachlorocyclopentadiene
isophorone
2, 3, 7, 8-tetrachloridibenzo-p-dioxin
1, 2, 4-trichlorobenzene
PCB-1016
PCB 1221
PCB-1232
PCB-1242
PCB-1248
RCB-1254
PCB-1260

Appendix 9.3.D.

Organic Priority Pollutants (cont'd)

picloram
dinoseb
alachlor
metolachlor
dicamba
pentachlorophenol

2-chlorophenol
2-methyl - 4, 6-dinitrophenol
phenol
2, 4, 6-trichlorophenol

[Ord. No. 93-4]

INORGANIC PRIORITY POLLUTANTS

Mercury
Cadmium
Chromium
Nickel

Lead
Arsenic
Selenium
Cyanide

Note: Parameters reflected in this table may be adjusted by ERM.

Appendix 9.3.E.

MINIMUM STANDARDS FOR SEWER PIPE FITTINGS, COATINGS AND LEAKAGE TESTING

A. Ductile Iron Pipe and Fittings for Gravity Sewer and Force Main Application:

1. Ductile iron pipe shall conform to the requirements of ANSI/AWWA C151/A21.52-86 unless otherwise noted on the plans. The pipe shall be Class 50 thickness for pipe 6 in. or larger in size and Class 51 for pipe smaller than 6 in. Glands for mechanical joints shall be of ductile iron or cast iron.

2. Fittings shall conform to the requirements of ANSI/AWWA C110/A21.10-87. Fittings 12 in. and smaller shall have a 250 psi minimum working pressure.

3. Flanged ductile iron pipe shall be Class 53. Flanged ductile iron pipe and fittings shall have threaded flanges, unless otherwise noted on the drawings, and shall conform to ANSI/AWWA C115/A21.15-83. All flanges shall be Class 1560, ANSI B16.5. All above grades flanges shall be flat faced unless they are mating up to existing, or otherwise, specified, raised flanges. All gaskets shall be full faced 1/8" red rubber.

4. Joints shall conform to the requirements of ANSI/AWWA C111/A21.11-85.

B. Polyvinyl Chloride Pipe (PVC) and Fittings for Gravity and Sewer Force Main Applications:

1. **Gasketed Joint Pipe:**

   a. Pipe 4 in. or larger in diameter shall conform to the requirements as set forth in AWWA C900-81 with dimension ration DR 18. Provisions must be made for contraction and expansion at each joint, or with a rubber ring and an integral bell as part of each joint, or by a rubber ring sealed coupling. Clean, reworked material generated from the manufacturer's own pipe production may be used. Fittings shall be cast or ductile iron. Pipe shall have cast iron pipe equivalent outside dimensions.

   b. Pipe smaller than 4 in. in diameter shall conform to Commercial Standard CS 256 and ASTM D-22141. Provisions shall be made for contraction and expansion at each joint with a rubber ring, and an integral bell as part of each joint, or by a rubber ring sealed coupling. Pipe shall be made from SOR 21, 200 psi clean, virgin NSF approved Type I, Grade 1 PBC conforming to ASTM D-1784. Clean reworked material generated from the manufacturer's own pipe production may be used. Fittings for pipe smaller than 4 inch in diameter shall be PVC.

C. Coatings: The lining material for ductile iron pipe and fittings shall be virgin polyethylene complying with ANSI/AWWA D1248, compounded with an inert filler and with sufficient carbon black to resist ultraviolet rays during above ground storage of the pipe and fittings. The polyethylene shall be bonded to the interior of the pipe or fitting by heat.

D. **Leakage Tests:** The test shall be of two (2) hour duration. During the test, the pipe being tested shall be maintained at a pressure of not less than 150 psi. Leakage is defined as the quantity of water added to the pipe being tested during the test period. No pipe installation will be accepted if the leakage exceeds the quantities specified in AWWA C-600, Sec. 4.2. No more than 500 feet of gravity sewer main or 1000 feet of force main shall be tested at one time.

E. **Manholes:** Manholes shall be precast and coated with an inert impervious material. Manhole inlets and outlets shall be tightly sealed around the sewer pipe and coated to prevent leakage.

SEC. 9.4 WETLANDS PROTECTION

A. PURPOSE AND INTENT.

1. **Purpose and intent.** It is the purpose and intent of this section to maintain the functions and values provided by wetlands and deep-water habitats so that there will be no net loss of the functions and values due to development or other activities.

B. DEFINITIONS.

Terms in this section shall have the following definitions. Additional terms defined in Article 3 may not apply to this section.

1. Alteration means any dredging, filling, cutting, drainage, or flooding of a jurisdictional wetland.

2. Applicant means any person or entity requiring a wetland alteration permit.

3. Buffer means an upland area intended to protect wetlands from dredge, fill and/or construction activities on adjacent wetlands.

4. Cambium means a layer of cells in the stems and roots of vascular plants that gives rise to phloem and xylem.

5. Commercial marinas means those facilities providing boat storage to persons other than residents of the immediately adjacent uplands, or those facilities providing for boat maintenance or repair.

6. C.Y. means Cubic Yards.

7. Creation means a human activity which brings a wetland into existence at a site where it does not currently occur.

8. Day means calendar day unless otherwise stated.

9. Dock means a boat mooring facility which has no more than ten (10) boat slips, and which does not provide a fuel facility, sewage pump-out station, or commercial land-to-water boat hoist.

10. Dredging means any disruption or displacement of wetland substrate or bottom sediments or contours. It also means the excavation or creation of a water body which is or will be connected to jurisdictional wetlands as defined in Sec. 9.4.B.18.

11. Enhancement means a human activity which increases one or more natural functions of an existing wetland.

12. ERM means the Palm Beach County Department of Environmental Resources Management.

13. Filling means the placement of any material in, on, or over a jurisdictional wetland.

14. Freeze damaged mangroves means those mangroves which have suffered freeze damage but evidence of life still remains, such as green leaves. These mangroves would be characterized by having dead material on the ends of some of their branches or dead material on one side of the tree. In all cases freeze damaged mangroves will appear to still have a percentage of live material in their composition.

15. Freeze killed mangroves means those mangroves that have suffered severe freeze damage, such that by October 1, following the last freeze they show no sign of recuperation such as new leaf or branch growth or any evidence of live cambium.

16. Functions means the roles wetlands serve, including but not limited to flood storage, flood conveyance, ground water recharge and discharge, erosion control, wave attenuation, water quality enhancement and protection, nutrient removal, food chain support, wildlife habitat, breeding and habitat grounds for fishery species, and recreational values.

17. In kind means the creation or enhancement of a wetland with vegetation and functions as those of an identified wetland.

18. Jurisdictional wetland means any wetland as defined in accordance with the provisions of Sec. 9.4.E.

19. Mangrove means any specimen of the species Avicennia germinans (black mangrove), Laguncularia racemosa (white mangrove), Rhizophora mangle (red mangrove), or Conocarpus erectus (buttonwood).

20. Mangrove fringe means those shoreline mangrove areas whose width does not exceed thirty feet (30') as measured from the landward edge of the mangrove trunk most landward of MHW (or MHW itself in the absence of any landward tree), waterward along a line perpendicular to MHW, to the waterward edge of the mangrove trunk most waterward of MHW.

21. Marinas means those mooring facilities providing for greater than ten (10) boat slips or any facility providing a fuel facility, sewage pump-out station, or commercial land-to-water boat hoist.

22. Mitigation means the compensation for the loss of wetland acreage, value and functions by the creation of new wetlands or the enhancement of existing wetlands.

23. MHW means Mean High Water.

24. MLW means Mean Low Water.

25. OHW means Ordinary High Water.

26. OLW means Ordinary Low Water.

27. Pneumatophore means the aerial root structure from the species Avicennia germinans (black mangrove) or Laguncularia racemosa (white mangrove).

28. Prop root means the structures originating below the lowest limbs of the red mangrove that are also known as stilt roots.

29. Seagrasses means those submerged beds of the genera Halophila, Syringodium, Halodule, Thalassia, and/or the green algae Caulerpa spp.

30. Wetland means any persistent and/or intermittent water body or area characterized by the dominance of those submerged and/or transitional wetland species listed in Chapter 17-301, Florida Administrative Code, and located within Palm Beach County including up to three (3) statute miles directly offshore of Palm Beach County. Dominance shall be defined in accordance with Florida Administrative Code Rule 17-301.200 and shall be determined in the appropriate plant stratum (canopy, subcanopy, or ground cover) as outlined in Florida Administrative Code Rule 17-301.400.

C. APPLICABILITY.

1. This section shall be known as the "Palm Beach County Wetlands Protection section."

2. All provisions of this section shall be effective within the unincorporated and incorporated areas of Palm Beach County, Florida, and shall set restrictions, constraints and requirements to preserve and protect wetlands.

3. This section shall be liberally construed to effect the purposes set forth herein.

4. This section shall apply to the dredging, filling, or draining of wetlands, or any other manner of alteration which has the potential to impact wetlands located in Palm Beach County.

D. AUTHORITY.

1. This section is adopted under the authority of the Palm Beach County Environmental Control Act, Chapter 77-616, Special Acts, Laws of Florida, as amended.

2. In accordance with the existing local program agreement with the Florida Department of Environmental Regulation, this section is adopted pursuant to Sec. 403.182, Chapter 403, Fla. Stat., Part VIII, and Chapters 17-4, 17-301, 17-302, 17-321 and 17-312, F.A.C., are adopted as if set forth in full herein. In the event of a conflict between this section and the adopted Fla. Stat. or F.A.C., the provisions which are more stringent shall govern.

3. Private single-family dock permitting authority delegated to ERM by the U.S. Army Corps of Engineers by General Permit SAJ-9 is adopted as if set forth in full herein. In the event of a conflict between this section and General Permit SAJ-9, the provisions which are more stringent shall govern.

4. Mangrove trimming criteria for Aquatic Preserves, as delegated to ERM by agreement with the Florida Department of Natural Resources, is adopted as if set forth in full herein. In the event of a conflict between this section and said delegation agreement, the provisions which are more stringent shall govern.

E. JURISDICTION.

1. Palm Beach County shall have regulatory authority over all wetlands as defined in Article 3, Definitions, and in Sec. 9.4.B.30. with the exception of:

   a. Isolated wetlands, less than one-half (½) acre total area, entirely surrounded by uplands; and

   b. Storm water treatment and flood attenuation ponds as permitted by the SFWMD which are located behind a water control structure, with no overlap on wetlands.

   c. Man-made sewage treatment and percolation ponds as permitted by FDER.

2. Permit applications for which the Palm Beach County Board of County Commissioners is the applicant, shall be processed by other state and federal agencies as appropriate.

3. Upon request, ERM shall provide a wetlands jurisdictional determination of a specified parcel of land. The request shall include at least three (3) aerial photographs of the land at a scale of 1" = 200' or less scale, with the subject property boundaries clearly marked. At the request of ERM, the landowner may be required to provide directions, access, or field marking of the subject parcel. Such jurisdictional determinations shall be considered accurate by ERM for a period of two (2) years, unless the site vegetation or hydrology changes, or there is a change to this section, at which time the jurisdictional determination shall be considered invalid.

F. EXEMPTIONS.

1. The following activities are exempt from the permitting requirements of this section:

   a. The installation of transmission lines that do not require dredging or filling of wetlands or alteration of mangroves or seagrasses.

   b. The installation of a dock in non-tidal waters, provided that:

      (1) Its coverage over jurisdictional wetlands is four hundred (400) square feet or less; and
      (2) It is for private, recreational, noncommercial use; and
      (3) It is the sole dock as measured along the shoreline for a minimum distance of sixty-five (65) feet; and

(4) No dredging or filling is necessary except for the placement of pilings; and
(5) It terminates in at least -3 feet OLW; and
(6) It will not obstruct navigation.

c. The replacement or repair of existing functional piers, mooring piles or boat ramps at the same location and of the same dimensions as the pier, mooring pile or boat ramp being repaired or replaced.

d. The placement of a boat lift or mooring pilings in the intended mooring area of a dock permitted by ERM.

e. The replacement or repair of an existing functional seawall, not more than one (1) foot waterward, where no wetland vegetation will be altered, and dredging is done only as necessary to install the new wall, and provided that the new wall is faced with:

(1) Riprap stacked at a minimum 2H:1V slope, at least to the height of MHW or OHW, or four (4) feet above bottom, whichever is less; or
(2) A minimum three (3) feet wide littoral zone planted and maintained with native aquatic vegetation at the appropriate elevations as determined by ERM.

f. Placement of supporting batter piles at an existing functional seawall, provided that no wetland vegetation would be altered and dredging is performed only as necessary to place the pilings.

g. Alteration of mangroves, as necessary, by a registered land surveyor, in the performance of land surveying, such alteration not to exceed three (3) feet in width.

h. Maintenance dredging of existing man-made tidal water bodies to original permitted specifications or -5' MLW (or OLW) provided that:

(1) Wetland vegetation will not be impacted by the proposed dredging; and
(2) The dredged spoil is deposited on a self-contained upland site with no water or spoil material returned to the canal; and
(3) Turbidity control is used as necessary to prevent a water quality violation of Sec. 9.4.G.

i. The performance of maintenance dredging of existing man-made nontidal canals, channels, and intake and discharge structures, where the spoil material is to be removed and deposited on a self-contained, upland spoil site which will prevent the escape of the spoil material and return water from the spoil site into surface waters of the state, provided no more dredging is performed than is necessary to restore the canals, channels, and intake and discharge structures to original design specifications, and provided further that control devices are used at the dredge site to prevent turbidity and toxic or deleterious substances from discharging into adjacent waters during maintenance dredging. This exemption shall apply to all canals constructed before April 3, 1970, and to those canals constructed pursuant to all necessary state permits on or after April 3, 1970. This exemption shall not apply to the removal of a natural or man-made barrier separating a canal or canal system from adjacent waters of the state. For those canals constructed prior to April 3, 1970, where no previous permit has been issued by the Board of Trustees of the Internal Improvement Trust Fund or the United States Army Corps of engineers for construction or

maintenance dredging of the existing man-made canal or intake or discharge structure, such maintenance dredging shall be limited to a depth of no more than 5 feet below OLW.

j. The installation of aids to navigation, including but not limited to bridge fender piles, "No Wake" and similar regulatory signs, and buoys associated with such aids, provided that the devices are marked pursuant to Sec. 327.40, Fla. Stat.

k. Repair or replacement of existing stormwater discharge pipes to original configurations.

l. Construction and maintenance of swales.

m. The replacement or repair of open-trestle foot bridges and vehicular bridges provided that no more dredging or filling is performed than necessary to replace or repair pilings and that the structure to be replaced or repaired is the same length, the same configuration, and in the same location as the original bridge, and provided that no debris from the original bridge shall be allowed to remain in jurisdictional wetlands.

n. The placement of riprap at the toe of an existing seawall provided that no mangroves or seagrasses would be impacted.

o. The construction of a culverted roadway or bridge crossing of a wholly artificial, non-tidal drainage conveyance canal provided that:

(1) The size and number of culverts are adequate to pass normal high water stages of the canal being crossed; and
(2) The elevation of the culvert invert shall be at the existing bottom grade of the canal; and
(3) The total width of the fill pad shall not exceed one hundred twenty (120) feet; and
(4) Clean fill shall be used, with resulting side slopes no steeper than 2H:1V; and
(5) The structure shall be maintained so as to continue to provide at least the same volume of discharge through the culvert(s); and
(6) Turbidity control devices are placed on either side of the structure during construction so as to effectively isolate the project area from upstream and downstream waters.

p. The installation, replacement, repair and maintenance of water control structures located in canal conveyance systems owned and operated by water management special taxing districts of the State of Florida.

q. Those activities specifically exempted by the Palm Beach County Environmental Control Act, 77-616, Special Acts, Laws of Florida.

r. Those projects to alter isolated wetlands that are granted construction permits pursuant to the SFWMD isolated wetlands rule on or before February 2, 1990.

s. Those projects for which ERM determines that there will be no significant adverse environmental impacts.

t. The replacement or repair of subaqueous transmission and distribution lines laid on, or imbedded in, the bottom of a wetland.

u. Dredging or filling which is required to connect stormwater management facilities permitted by the SFWMD to non-tidal wetlands and which is incidental to the construction of such stormwater management facilities. Incidental dredging or filling shall include:

(1) Headwalls and discharge structures; and
(2) Erosion control devices or structures to dissipate energy which are associated with discharge structures; and
(3) Outfall pipes less than twenty (20) feet in length in waters provided the pipe does not interfere with navigation; and
(4) The connection of ditches dug through the uplands where the dredging or filling for the connection to wetlands extends less than twenty (20) feet in length into the wetland; and
(5) Other dredging or filling which ERM determines will have a similar effect as those activities listed above.

v. A permit under this Sec. will not be required if the activities otherwise regulated hereunder will be conducted on a single-family residential lot and:

(1) The lot will be used for private, single-family residential purposes only, has not been further subdivided since February 2, 1990, and is not currently undergoing subdivision; and
(2) The lot qualifies as a buildable lot under the Density Determination provisions of the 1989 Palm Beach County Comprehensive Plan; and
(3) The lot is 2.5 acres or less in size when measured from the property boundaries; and
(4) The wetlands proposed to be impacted are isolated in that they are not jurisdictional under Chapter 403, Fla. Stat.; and
(5) The activities will not result in the transport of fill material from the lot to an off-site location; and

(6) ERM has determined that the wetlands on the lot have already been impacted by existing legal construction or development in the surrounding area. The determination shall reflect prior installation of existing access roads and drainage systems in the area, construction of houses on adjacent lots, and overall viability of the wetland. The owner of the lot affected by ERM's determination may appeal the determination pursuant to Sec. 9.4.K. of this Code.
(7) Lots meeting the requirements of this section may be deemed eligible as Transfer of Development Rights sending areas pursuant to the procedures contained in Sec. 6.10.

The Department may maintain a list of the subdivisions, sections within subdivisions, or areas containing lots which meet the criteria listed in (1) through (6) immediately above, as it becomes aware that such criteria have been met. The Department shall provide any such list to the County's PZ&B Department to assist in expediting the permit process.

w. Those projects to alter wetlands where the property owner has received an exemption from dredge and fill permitting, pursuant to Sec. 403.817(2), Fla. Stat.

G. WATER QUALITY STANDARDS.

The water quality rules and standards as set forth in Chapter 17-302, F.A.C. existing on the effective date hereof and as may be amended from time to time, are hereby adopted and incorporated by reference as if set forth in full herein. The mixing zones referenced in Chapter 17-4, Florida Administrative Code, are also adopted as if set forth in full herein.

H. PERMITS.

1. Any construction, dredging, filling, or alteration in, on or over a jurisdictional wetland or which will negatively impact the functions and value of a jurisdictional wetland shall require a permit by ERM, unless specifically exempted by this section.

2. Permit applications shall be made on forms prescribed by ERM. ERM is encouraged to make use of forms already in use by other state or federal environmental regulatory agencies.

3. An application shall not be deemed complete until the application fee and all information reasonably necessary to fully understand the extent, nature, and potential impacts of a proposed project are received by ERM. Such information may include, but is not limited to:

   a. An explanation of the need and intent of the project;

   b. A description of construction or alteration methodology;

   c. A completed application form;

   d. Aerial photographs;

   e. Line sketches;

   f. Sediment analysis;

   g. Water quality analysis;

   h. Engineering models and predictions;

   i. Methods of water quality control;

   j. Biological evaluation of the project site, including benthic macroinvertebrate sampling and reporting;

   k. Identification of the species and location of wetland vegetation in the vicinity of, and likely to be affected by, the project;

   l. Water depths referenced to MLW, MHW, OLW, or OHW, as appropriate;

   m. Estimated cost of any mitigation;

n. Site plan;

o. Scaled photographs of mangroves prior to alterations. (Permits issued to alter mangroves within an Aquatic Preserve shall require similar photographs after alteration).

4. Items a-c, e, k, n, and o described above shall be a minimum requirement for any application made to alter mangroves within an aquatic preserve.

5. It shall be the responsibility of the applicant to provide a copy of the submitted application form (via certified mail) to all adjacent property owners whose property also adjoins the wetland when a request is made by ERM pursuant to Sec. 9.4.H.7, below. Within thirty (30) days of such a request, the applicant shall provide the certified mail receipts to ERM.

6. Where an application is made for work in common areas of a multi-family residential site (i.e., condominiums, apartments, townhouses, villas, and similar structures) the representative association, or all of the homeowners as a group, shall be the applicant. ERM shall not process an application made by one (1) unit owner in a multi-family setting where the work is proposed on lands designated as common areas.

7. Upon receipt of an application and appropriate application fee, ERM shall have thirty (30) days to request any additional information pursuant to Sec. 9.4.H.3, above. Within thirty (30) days of receipt of such additional information, ERM may request only that information needed to clarify such additional information or to answer new questions raised by or directly related to such additional information. ERM may begin processing an application in the absence of the appropriate application fee. However, no time clocks of this subsection shall begin until the appropriate application fee is received.

8. If ERM does not make a request for additional information within thirty (30) days of receipt of an application and appropriate application fee or requested information, the application shall be deemed complete upon receipt.

9. If an applicant fails to respond to a Department request for an application fee, or any additional information, within sixty (60) days, the application may be deactivated without prejudice. However, ERM may grant an extension of time as is reasonably necessary to fulfill the request for additional information.

10. Upon receipt of a completed application and fee, ERM shall have ninety (90) days to take final action, unless the time clock is tolled by the applicant. Final action shall be permit issuance, permit denial, or conditional permit issuance. Failure by ERM to take final action within ninety (90) days shall result in the authorization of the proposed work with standard limiting conditions.

11. Any application containing false information, or any permit issued based upon false information, may be denied or revoked and may subject the applicant to enforcement proceedings pursuant to Sec. 3.

12. Department permits shall be issued with a duration period that is reasonably necessary to complete the project and any necessary mitigation, not to exceed five (5) years for projects up to 100 acres of wetlands and not to exceed ten (10) years for projects over 100 acres of wetlands.

13. ERM may attach conditions to any permit where such conditions are deemed reasonably necessary to protect the environmental integrity of the subject site, restoration or mitigation areas, or adjacent wetland areas.

14. Any application received that is substantively the same as a previous application that has been denied by ERM shall also be denied without further processing.

15. Any site or property owner which has been found to be in violation of any section administered by ERM, shall not be issued a Department permit until such violation has been corrected.

16. Any substantial modification to a complete application (unless the modification is recommended by ERM) or to an issued permit, shall require an additional application fee pursuant to Sec. 1 and shall restart the time frames of this subsection.

17. Department permits issued solely to maintain mangrove trees to specified dimensions may be renewed annually provided that:

    a. A written request for renewal and application fee is received while the permit is valid; and

    b. The project is in compliance with the current permit; and

    c. The project complies with standards of this section as it exists at the time of renewal application.

18. All drawings for applications other than work on a private single-family residential lot shall be sealed or certified by:

    a. a Florida registered professional engineer; or

    b. a Florida registered professional surveyor; or

    c. a Florida registered professional landscape architect; or

    d. an Environmental Professional certified by the National Association of Environmental Professionals or the Florida Association of Environmental Professionals.

I. CRITERIA FOR GRANTING PERMITS.

1. A permit may not be issued pursuant to this section until it is determined that the following general criteria will be met:

    a. There shall be no net loss of wetland values and functions.

    b. The project will not adversely affect the conservation of fish or wildlife or their habitats.

c. The project will not cause excessive shoaling or erosion.

d. The project will not adversely affect commercial or recreational fisheries or their habitat.

e. Endangered species, threatened species, and species of special concern and/or their habitat will not be adversely impacted.

f. Project alternatives and modifications to lessen impacts have been determined to be infeasible.

g. The project is not in contravention with any other federal, state or local designated preserve or conservation or mitigation area.

h. ERM determines that the cumulative impacts of the subject project and other similar projects will also meet the criteria of this subsection.

i. No dredging or filling shall occur in seagrasses except that which may be allowed by Sec. I.2.c.

j. Any structure proposed on or over a wetland is water dependent.

2. In addition to the foregoing general criteria, a permit shall not be issued for the following specific activities unless and until the following additional specific criteria have been met:

a. **Docks.** When issuing permits for docks, ERM shall require that:

(1) Mooring areas shall be located in water depths at least three (3) feet MLW or OLW; and
(2) Mooring areas, roof structures and termini shall not be located over seagrasses; and
(3) An access pier permitted to pass over seagrasses shall be no more than four (4) feet wide, or up to six (6) feet wide if elevated five (5) feet above MHW.

b. **Bulkheads.** Any bulkhead permitted by ERM (except those located within a commercial boat haul out facility or upland marina basin) shall be faced with:

(1) Riprap stacked at a minimum 2 horizontal: 1 vertical (2H:1V) slope, at least to the height of MHW (or OHW), or four (4) feet above bottom, whichever is less; or
(2) A minimum three (3) feet wide littoral zone planted and maintained with native aquatic vegetation at the appropriate elevations.

c. **Access channels.** An access channel may be permitted through seagrasses to reach an upland boat basin provided that:

(1) The channel meets all other general criteria of Sec. 9.4.I.1; and
(2) The channel does not exceed the minimum width necessary for safe operation of the channel.

d. Mangrove Alteration. ERM shall adhere to the following criteria when issuing mangrove alteration permits:

(1) Alteration for a view.

(a) A mangrove tree may be permitted to be trimmed or maintained not less than seven (7) feet tall as measured from the substrate.

(b) A mangrove tree may not be reduced in height or canopy by greater than thirty (30) percent of its original (prior to any alteration) height or canopy.

(c) Trimming for a view may be permitted through a mangrove fringe whose width does not exceed 30 feet as defined in Sec. 9.4.B.

(2) Shoreline. Up to fifty (50) percent of an owner's shoreline or a shoreline length equal to or less than the shoreline length of the habitable portion of the dwelling that faces the water (whichever is less) may be permitted to be altered when necessary to achieve a water view.

(a) Cut plant material (except leaves) shall not be placed in jurisdictional wetlands.

(b) No root structures (including prop roots and pneumatophores) may be altered.

(c) Trimming that can reasonably be expected to result in the death of a mangrove tree shall not be permitted.

(d) Any mangrove the trunk of which is greater than twelve (12) inches in diameter at breast height, or thirty-seven (37) inches in circumference, shall not be trimmed.

(3) Alteration for Dock Access.

(a) A dock up to four (4) feet wide may be permitted to pass through a mangrove fringe.

(b) Dock pilings may be spaced no closer than ten (10) feet apart within the fringe, or not placed within the fringe where possible.

(4) Alteration for Other Reasons. ERM may permit the minimum amount of alteration as is reasonably necessary, provided the alteration is consistent with the general criteria of Sec. I.1.

(5) Waiver. To provide an incentive for the propagation of mangroves, ERM shall waive the application fee for any permit issued, provided that the mangroves are naturally less than twenty-four inches tall at the time of application.

(6) Trimming Freeze Damaged Mangroves. Freeze-damaged mangroves may be trimmed to a greater extent than live mangroves for the purpose of removing dead wood. Freeze damaged mangroves which occur outside of an otherwise permitted trim area for live mangroves shall remain untrimmed, except for those deemed by ERM to pose a safety hazard. A safety hazard shall be determined to exist when a dead mangrove tree is within twenty (20) feet or fall height of any habitable portion of a dwelling. Permits to alter freeze damaged mangroves shall be subject to the following conditions.

(a) ERM shall not consider a request to alter freeze damaged mangroves until October 1, following the freeze event.

(b) Freeze killed mangroves may be cut no lower than four (4) feet above the substrate or one (1) foot above the highest prop root, whichever is higher above the substrate.

(c) Freeze damaged mangroves may be altered by removing dead material not closer than one foot to live material, in no case to exceed the specifications of (b) above.

(d) Mangroves determined to be a safety hazard may be altered in accordance with specifications (b) and (c) above.

(7) **Mitigation for Mangrove Alteration.** The following specifications shall apply to permits issued to trim mangroves within a DNR-designated Aquatic Preserve:

(a) All permits issued to trim more than fifty (50) lineal feet of mangrove shoreline shall require mitigation at a ratio of one square foot for every lineal foot of mangrove shoreline permitted to be trimmed. Such mitigation shall be consistent with Secs. ? through (4).

(b) Where mitigation is determined by ERM to be impractical on-site, and no apparently suitable off-site mitigation areas exist, the permittee shall be required to make a monetary contribution to the Palm Beach County Pollution Recovery Trust Fund. The permittee, prior to any trimming, shall remit $2 for every lineal foot of mangrove shoreline permitted to be trimmed. Said monies shall be dispersed by the Board of County Commissioners for environmental enhancement.

e. Marinas.

(1) **General Intent.** It shall be ERM's policy to:

(a) Favor upland boat storage over waterward storage;

(b) Favor dredging uplands to create a marina basin over dredging wetlands;

(c) Favor making use of naturally occurring deep water areas over dredging shallow areas;

(d) View the avoidance of impacts to seagrasses as a crucial factor in determining marina location.

(2) **Marina Location.**

(a) Applications for new marinas shall not be permitted where local zoning prohibits such use.

(b) Applications for new commercial marinas or fueling facilities shall not be permitted in any area designated by the State of Florida as a Class I or II Waterbody, or the Jensen Beach to Jupiter Inlet Aquatic Preserve, or that portion of the Loxahatchee River Aquatic Preserve that lies west of Alternate State Road A1A.

(3) **Marina Design.**

(a) Boat mooring sites shall not be permitted over seagrasses.

(b) Where pier access is gained over seagrasses, the pier may be up to four (4) feet wide, or six (6) feet wide if elevated at least five (5) feet above MHW.

(c) Boat mooring sites may be approved only in water depths of -4' MLW (or -3' OLW in freshwater) for slips up to thirty (30) feet long. Greater depths shall be required for larger vessels so as to prevent prop-dredging.

(d) Marinas in tidal waters shall be designed and located so as to provide a basin turnover or water replacement time of not more than seventy-two (72) hours with no dead spots and pollutant concentrations not to exceed those standards adopted by Sec. 9.4.G. It shall be the responsibility of the applicant to demonstrate compliance with this requirement.

(4) **Support Services.**

(a) All marinas shall provide at least one sewage pump-out facility capable of handling sewage in accordance with state and local standards for every forty (40) slips permitted by this section. Pump-out facilities should be located at fueling facilities when available.

(b) All gas pumps which service boats shall be equipped with an operating automatic cut-off device at the nozzle so as to avoid spillage of fuel into the water. Handle valve latches or other hold-open devices are prohibited.

(5) **Marking.**

(a) All marinas adjacent to shallow waters (less than -4' MLW) or seagrasses shall be required to effectively mark points of ingress and egress between the marina and deep water channel. All such devices shall be marked pursuant to Sec. 327.40, Fla. Stat.

(b) Any environmentally sensitive areas identified by ERM including, but not limited to seagrasses, shall be marked by the permittee with the intention of keeping boaters away from such areas. Each project shall be evaluated separately to determine environmentally sensitive areas.

(c) All marinas in tidal waters shall post at least one manatee awareness sign (as approved by the Florida Department of Natural Resources) at a prominent location within the marina.

f. **Excavation Section.** Any dredging projects permitted pursuant to this Section shall not be required to obtain a separate excavation permit pursuant to Sec. 7.6 of this Code although the criteria contained in Sec. 7.6.F.1 through 11 may be applied, where applicable, to dredging projects permitted pursuant to this section.

J. MITIGATION.

1. **Criteria.** For projects that do not meet the permitting criteria of Sec. 9.4.I, ERM may evaluate proposals for mitigation. ERM shall first use the criteria of Sec. J.2. to determine when mitigation is appropriate. The criteria of Sec. J.3 shall be used to set standards for accepting mitigation proposals.

2. **When to Evaluate Mitigation Proposals.**

a. **No alternative site.** Restoration or creation may be permitted to compensate for new wetland loss only where a permit applicant demonstrates that the proposed activity cannot be practically located at an alternative, non-wetland site. The applicant must also demonstrate that the proposed activity cannot practically be located on the upland portion of the site or another site.

b. **All practical measures will be taken to reduce impact.** Restoration or creation may be permitted to compensate for wetland loss only where the permit applicant has made reasonable project modification measures to reduce wetland loss and degradation such as site design to reduce fill into or drainage of the wetland, provision of an upland buffer area and other erosion control measures where the activity will cause erosion, construction of pretreatment facilities for stormwater to be discharged into wetlands, and undertaking activities at such time of year as would have the least impact upon the wetland or endangered or threatened species.

3. **Standards for Mitigation.**

a. **No overall net losses.** Restoration or creation may be permitted to compensate for wetland losses only where restoration and/or creation will restore lost wetland functions and values. The following mitigation ratios shall be presumed to restore wetland functions and values when done in kind:

(1) Tidal wetlands 2.0:1
(2) Freshwater forested swamp, non-cypress dominated 2.5:1
(3) Freshwater forested swamp, cypress dominated 2.0:1
(4) Freshwater marshes 1.5:1

Only where the created wetland can be expected to surpass the values and functions of the existing wetland can the ratio be adjusted downward.

ERM shall require a ratio for restored or created functions or acreage exceeding these ratios where:

(1) Uncertainties exist as to the probable success of the proposed restoration or creation; or
(2) The degradation or destruction will deprive Palm Beach County of various wetland values for a period of time until the restoration or creation is completed and functional; or
(3) Mitigation is proposed off site or not in kind; or
(4) Mitigation proposed includes restoration or enhancement of existing wetlands rather than creation of new wetlands.

b. **Adequate hydrology, soils and other basic requirements.** Wetland restoration, enhancement, or creation may be permitted only where those hydrologic, soil, side slope, and other basic characteristics of the proposed project are adequate to achieve the proposed project goals.

c. **Persistence.** Wetland restoration or creation may be permitted to compensate for new wetland losses only where the restored or created wetland will be at least as persistent as the existing wetland system it is intended to replace.

d. **Sufficient financial resources.** Evidence of financial resources necessary to complete the mitigation activities shall be provided by the applicant except in the case of an application by a political subdivision or agency of the State. Such evidence may be:

(1) A letter of credit acceptable to ERM; or
(2) A performance bond acceptable to ERM; or
(3) Similar security acceptable to ERM.

e. **Maintenance and monitoring.** For all mitigation projects, ERM shall require, at a minimum:

(1) Maintenance of at least eight (80) percent survivorship of all plantings for at least two (2) years; and
(2) Quarterly monitoring reports of the status of the mitigation area, including number of surviving plantings and any plantings made to maintain eighty (80) percent survivorship; and
(3) Quarterly replantings to maintain eighty (80) percent survivorship; and
(4) Maintenance and removal of exotic species.

f. **Mitigation before alteration.** Except where prohibited by necessary construction techniques or sequences, as determined by ERM, the initial construction, earthwork and planting for mitigation shall be completed prior to the permitted alteration of wetlands. Where ERM determines that necessary construction techniques or sequences prohibit mitigation before alteration, the applicant shall provide a Letter of Credit or Performance Bond to ERM in an amount equal to one-hundred ten (110) percent of the cost of mitigation prior to the permitted alteration of wetlands.

g. **Buffer zones.** Buffer zones may be required around isolated wetlands that are created, enhanced or preserved pursuant to this section. Actual delineation of the buffer zone may vary according to site specific conditions. Buffer zones which extend at least fifteen (15) feet landward from the edge of the wetland in all places and average twenty-five (25) feet from the landward edge of the wetland will be presumed to be adequate.

4. An owner of a lot which meets the exemption criteria of Sec. 9.4.F.1.v. with the sole exception of number 3 thereunder, shall not be required to perform mitigation to obtain a permit under this section if the lot is 3 acres or less. However, all wetland impacts must be avoided or minimized to the greatest extent possible. The mitigation criteria shall be waived when the Department determines that the project otherwise meets the general permitting criteria of Sec. 9.4.I and when ERM determines that the owner has made all reasonable project modifications to avoid or reduce wetland impacts. Reasonable modifications may include but shall not be limited to changes in site design to reduce fill in a wetland, to reduce drainage of a wetland, to eliminate non-essential non-habitable structure, or to reduce the project footprint by implementing a more vertical design of structures.

K. APPEALS.

1. An applicant may appeal any decision made by ERM to the Environmental Ordinance Appeals Board. A written notice of appeal shall be filed by the applicant with the Director of ERM within twenty (20) days from receipt of the decision appealed from, setting forth in detail the factual basis for such an appeal. The matter shall be reviewed in hearing by the appeal board within sixty (60) days of ERM's receipt of a request and a fifty (50) dollar filing fee. The appeal board shall enter a decision by written order no later than ten (10) days following conclusion of the hearing. The order shall include findings of fact and conclusions of law and shall be deemed final administrative action. An applicant or ERM may appeal a final decision of the appeal board within thirty (30) days of the rendition of the decision by filing a petition for Writ for Certiorari in Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

L. FEES.

1. Permit application fees shall be nonrefundable and nontransferable.

2. All application fees paid by check shall be made payable to the "Palm Beach County Board of County Commissioners."

3. A Fee shall be required as established by the approved Fee Schedule.

M. ENFORCEMENT.

1. Any projects, activities or alterations which would have been in violation of Palm Beach County Ordinance No. 81-18, as amended, or 78-5, as amended, or 90-5, as amended, or 90-41, as amended during its effective period, shall continue to be violations under this section but shall be subject to prosecution under the respective Ordinance.

2. It shall be a violation of this section for any individual to alter, or cause or allow to be altered, any jurisdictional wetland without benefit of a Department permit, or in contravention to a Department permit. Activities specifically exempted by this section shall not be a violation of this rule.

3. ERM shall have available to it all enforcement remedies made available pursuant to Chapter 77-616, Laws of Florida, as amended.

N. SUNSET CLAUSE.

Those provisions of this Sec. that are duplicative of other State regulatory efforts but that are not delegated by said agencies on or before March 15, 1993, shall sunset at 5:00 p.m. on March 15, 1993, unless otherwise renewed by the Board of County Commissioners, or upon a change in the status of the joint wetlands permitting agreement between Palm Beach County and the Florida Department of Environmental Regulation, whichever occurs first.

[Ord. No. 93-4; February 2, 1993]

ARTICLE 10.

IMPACT FEES

TABLE OF CONTENTS

ARTICLE 10.
IMPACT FEES

Page

SEC. 10.1 GENERAL 1
A. Intent, authority and findings 1
1. Intent. 1
2. Authority 1
3. Findings 1
B. Applicability 1
C. Exemptions 2
D. Imposition of Fee 2
1. New land use 2
2. Expansion, replacement or change of use of existing land uses 2
E. Computation of fee 3
1. General 3
2. Fee schedule 3
3. Land uses not specified in fee schedule 3
4. Mixed use 3
5. Biennial review 3
F. Independent fee calculation study 4
1. General 4
2. Submission of application 4
3. Contents of application 4
4. Determination of sufficiency 4
5. Action by Impact Fee Coordinator 5
6. Covenant running with the land 6
7. Appeal 6
G. Collection and Administrative Fees 7
1. Timing and collection of payment 7
2. Administrative fees 7
3. Fees transferred to trust funds 7
4. Record keeping 8
5. Impact Fee Coordinator to furnish such information and advice to the municipalities. 8
H. Benefit zones 8
1. Establishment of benefit zones 8
2. Establishment of trust funds 8

I. Use of impact fees 8
1. Investment in interest bearing accounts 8
2. Limitation within benefit zones 8
3. Expenditures shall benefit new development. 9
4. Non lapsing 9
5. Annual capital facility programs 9
J. Refunds 9
1. General 9
2. Procedure to obtain refund 10
K. Credits 11
1. General 11
2. Appeal 18
3. Time to Claim Credit – Responsibility of Feepayer. 18
L. Covenants 18
M. Vesting 18
N. Action if impact fees are unpaid 18
1. Negotiable instrument is invalid. 18
2. Lien 18
3. Withholding development orders 19
4. Notification construction industry licensing board 19

SEC. 10.2 COUNTY DISTRICT, REGIONAL, AND BEACH PARKS IMPACT FEE. 19
A. Imposition of fee. 19
B. Schedule of lower fees for municipalities. 19
C. Fee schedule. 20
D. Benefit zones 25
1. Establishment of benefit zones 25
2. Identification of benefit zones 26
E. Establishment of trust funds 26
F. Use of park impact fees 26

SEC. 10.3 FIRE-RESCUE IMPACT FEE. 28
A. Imposition of fee. 28
B. Fee schedule 28
C. Benefit zones 29
1. Establishment of benefit zone 29
D. Establishment of trust fund 29
E. Use of fire-rescue impact fees 29

SEC. 10.4 LIBRARY IMPACT FEE 29
A. Imposition of fee. 29
B. Fee schedule 29
C. Benefit zone 30
1. Establishment of benefit zone 30
D. Establishment of trust funds 30
E. Use of library impact fees 30

SEC. 10.5 LAW ENFORCEMENT IMPACT FEE 30
A. Imposition of fee. 30
B. Fee schedule 30
C. Benefit zones 33
1. Establishment of benefit zones 33
D. Establishment of trust funds 33
E. Use of law enforcement impact fees 33

SEC. 10.6 PUBLIC BUILDINGS IMPACT FEE. 33
A. Imposition of fee. 33
B. Fee schedule 33
C. Benefit zone 35
1. Establishment of benefit zone 35
D. Establishment of trust funds 35
E. Use of public buildings impact fees 35

SEC. 10.7 SCHOOL IMPACT FEE. 35
A. Imposition of fee. 35
B. Fee schedule 35
C. Benefit zones 35
1. Establishment of benefit zones 35
2. Identification of benefit zones 36
D. Establishment of trust funds 36
E. Use of school impact fees 36

SEC. 10.8 FAIR SHARE ROAD IMPACT FEES. 38
A. Imposition of fee. 38
B. Fee schedule 38
C. Land uses not specified in fee schedule. 38
D. Fee calculation formulae. 38
1. Residential. 38
2. Non-residential. 38
3. Non-residential - short trip. 39
E. Use of road impact fee funds 39
F. Benefit zones 42
G. Establishment of trust funds 42

ARTICLE 10.
IMPACT FEES

SEC. 10.1 GENERAL.

A. Intent, authority and findings.

1. **Intent.** This article is intended to implement and be consistent with the Comprehensive Plan and to regulate the use and development of land. It is the intent of Palm Beach County that new development shall bear a proportionate share of the cost of capital expenditures necessary to provide park, fire-rescue, library, law enforcement, public building, schools and road capital facilities in Palm Beach County as is contemplated in the Comprehensive Plan.

   Impact fees shall not be used to collect more than is necessary to fund such capital facilities. The impact fees in this article are based on the Impact Fee Report, as amended, and the methodology adopted for Fair Share Road Impact Fees, which establish a fair and equitable allocation of costs and recognize past and future payments from new development, as well as credits for in-kind contributions, and municipal provision of like facilities under certain circumstances.

   Funds collected from impact fees shall not be used to replace existing capital facilities or to fund existing deficiencies, but only to provide for new capital facilities which are necessitated by new development.

2. **Authority.** The provisions of this article are authorized by Art. VIII, Sec. 1(g), Fla. Const., Secs. 125.01 et. seq., 163.3161 et. seq., 236.24(1), and 380.06, Fla. Stat., Sec. 1.3(2), the Palm Beach County Charter, and the Capital Improvements Element of the Comprehensive Plan. In addition, the provisions of this article are necessary for the implementation of the Comprehensive Plan, and for meeting the school planning requirements of Sec. 135.193, et. seq., Fla. Stat. The inclusion of certain capital facilities in these impact fees shall not be construed as a limitation on the authority of Palm Beach County to impose impact fees for additional capital facilities consistent with Florida law.

3. **Findings.** Palm Beach County finds that the provisions of this article are land development regulations which are: necessary for the implementation of the Comprehensive Plan; needed to ensure that developments of regional impact are assessed impact fees under Sec. 380.06, Fla. Stat.; innovative land development regulations authorized by Sec. 163.3202(3), Fla. Stat.; necessary to ensure the coordination of new development and the provision of capital facilities, especially sites for new schools; a mandatory responsibility of Palm Beach County under the Local Government Comprehensive Planning and Land Development Regulation Act, Sec. 163.3161 et. seq, Fla. Stat.; and necessarily and reasonably related to the public health, safety and welfare.

[Ord. No. 95-8]

B. **Applicability.** This article shall apply to the unincorporated area of Palm Beach County and to the municipalities in Palm Beach County to the extent permitted by the Palm Beach County Charter and Art. VIII, Sec. 1(g), Fla. Const., unless otherwise expressly stated in this article.

C. Exemptions. The following development shall be exempt from the payment of the respective impact fees, as applicable. Any exemption not claimed at the time of issuance of the building permit shall be deemed to have been waived by the feepayer.

1. Any development that results in no new impact on a capital facility for which the impact fee is assessed by the County.

2. The construction of accessory buildings or structures where the use is not changed such that an additional impact does not result from the construction and where no additional units or square footage are added.

3. The construction of publicly owned governmental buildings or facilities.
[Ord. No. 95-50]

D. Imposition of Fee.

1. New land use. Any new land development creating an impact on any public facility as defined in this Code shall be required to pay impact fees in the amount and manner set forth in this article to help regulate the new land development's effect on those public facilities. No building permit for any land development requiring payment of an impact fee pursuant to this article shall be issued until the impact fee has been paid by the feepayer. No building permit for any land development requiring payment of an impact fee pursuant to this article shall be renewed or extended until the impact fee in effect at the time of the renewal or extension has been paid by the feepayer. For those land uses that do not require a building permit, the impact fee shall be paid prior to receipt of a development order that initiates impact on public facilities. Payment of the impact fee shall not relieve the feepayer from the obligation to comply with Article 11, Adequate Public Facility Standards, or any other portion of this Code.

2. Expansion, replacement or change of use of existing land uses. Any existing land use that is expanded, replaced, or changed shall be required to pay impact fees based on the new or additional impact as a result of the expansion, replacement or change of use. The feepayer may be eligible for credit for the existing land use pursuant to Sec. 10.1.K.1.a.
[Ord. No. 95-8]

E. Computation of fee.

1. **General.** At the option of the feepayer, the amount of the impact fee may be determined either by the fee schedules for each impact fee component pursuant to Sec. 10.1.E.2, 10.8.C and Secs. 10.2-10.8, or by an independent calculation pursuant to Sec. 10.1.F. If the amount of the impact fee for the land use is not determined in the fee schedule and the feepayer opts not to conduct an independent calculation, the impact fee shall be determined by the Impact Fee Coordinator as described in Sec. 10.1.E.3 and Sec. 10.1.E.2, 10.8.C.

2. **Fee schedule.** The impact fees in the fee schedules have been calculated using the data and methodologies described in the Impact Fee Report, as amended, and in the methodology adopted for fair share road impact fees. Impact fees are applicable to new development in unincorporated Palm Beach County and the municipalities within Palm Beach County, and the impact fee schedules establish impact fees based on the proportional impacts of, and benefits to, new development on and from capital facilities provided by Palm Beach County and the School Board.

3. **Land uses not specified in fee schedule.** Except for road impact fees, if the type of land development for which a building permit or other appropriate permit is applied, is not specified on the impact fee schedule, the Impact Fee Coordinator shall use the impact fee applicable to the most nearly comparable type of land use on the fee schedule. For road impact fees, the Impact Fee Coordinator shall select the most comparable type of land use from the most current edition of Trip Generation, a publication of the Institute of Transportation Engineers (ITE). The Impact Fee Coordinator shall follow the procedure pursuant to Sec. 10.1.E.2, and 10.8.C.

4. **Mixed use.** For mixed use development where there is a development order expressly identifying the type and proportion of uses within the development, the impact fee shall be determined by applying the fee schedule to the uses and proportions of use specified in the development order. For mixed use development where there is no development order specifically limiting the type and proportion of uses within the development, the impact fee shall be determined using the fee schedule for the most intense use.

5. **Biennial review.** Biennially beginning in January, 1994, the Impact Fee Coordinator shall recommend to the Board of County Commissioners whether any changes should be made to the fee schedules to reflect changes in the factors that affect the fee schedules. This recommendation shall be as a result of a review of the data from which the fee schedules are calculated. The purpose of this review is to evaluate the level of service for each impact fee component to determine whether it should be adjusted based on changed conditions, to analyze the effects of inflation and other cost factors on the actual costs of capital facilities, to assess any changes in credits and generation rates and to ensure that the impact fee charged new land use activity impacting capital facilities will not exceed its pro rata share for the reasonably anticipated costs of capital facilities necessitated by the new land development.

[Ord. No. 95-8]

F. Independent fee calculation study.

1. **General.** If a feepayer opts not to have the impact fee determined according to the fee schedule, then the feepayer shall, at the feepayer's expense, prepare and submit to the Impact Fee Coordinator an independent fee calculation study for the proposed land use. An independent fee calculation study for road impact fees shall be submitted simultaneously to the Impact Fee Coordinator and the County Engineer. The independent fee calculation study shall follow the methodologies used in the Impact Fee Report. The independent fee calculation study shall be conducted by a professional in impact analysis. An independent fee calculation study for road impact fees shall be conducted by a professional in road impact fee analysis or by a registered engineer. The burden shall be on the feepayer to provide the Impact Fee Coordinator all relevant data, analysis and reports which would assist the Impact Fee Coordinator in determining whether the impact fee should be adjusted.

2. **Submission of application.** The application for an independent calculation study shall be submitted to the Impact Fee Coordinator, except that an independent calculation study for road impact fees shall be submitted simultaneously to the Impact Fee Coordinator and the County Engineer.

3. **Contents of application.** The application shall be in a form established by the Impact Fee Coordinator and made available to the public. The independent fee calculation study shall follow the methodologies used in the Impact Fee Report. A feepayer wishing to perform an independent fee calculation study for road impact fees shall prepare a traffic impact analysis, which shall include, as appropriate, documentation of:

   a. Trip generation rates appropriate for the proposed land use;

   b. Trip distribution and traffic assignments;

   c. Trip length data appropriate for the proposed land use; and

   d. Any other trip data employed in the independent fee calculation that is appropriate for the proposed land development.

   e. An economic documentation study that includes documentation of:

      (1) costs for roadway construction, including the cost of right-of-way, design, and engineering appropriate for the necessary road improvements.
      (2) credits attributable to the proposed land use for roadway improvements which can be expected to be available to replace the portion of the service volume used by the traffic generated by the proposed land development.
      (3) The shortfall when the credits attributable to the proposed land use are considered.

4. Determination of sufficiency. The Impact Fee Coordinator shall determine if the application is sufficient within five (5) working days of its receipt.

a. If the Impact Fee Coordinator determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the deficiencies. No further action shall be taken on the application until the deficiencies are remedied.

b. If the application is determined sufficient, the Impact Fee Coordinator shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review pursuant to the procedures and standards of this section.

5. Action by Impact Fee Coordinator.

a. **Impact fees other than roads.** For other than road impact fees, within ten (10) working days after the application is determined to be sufficient, the Impact Fee Coordinator shall review the application, and if the application provides substantial evidence that clearly demonstrates by the methodology described in the Impact Fee Report that the proposed land use is designed or used such that the occupants of the development will use capital facilities less than that projected in the impact fee component, the Impact Fee Coordinator shall appropriately adjust the fee.

b. **Road impact fees.** For road impact fees, within fifteen (15) working days after the application is determined to be sufficient, the County Engineer shall review the application and, if the application provides substantial evidence that clearly demonstrates using the formulae described in this section that the proposed land use is designed or used such that the development will create fewer trips than projected in the road impact fee component, shall make a written recommendation to the Impact Fee Coordinator on adjusting the road impact fee. If the Impact Fee Coordinator concurs, the Impact Fee Coordinator shall appropriately adjust the fee within five (5) working days of receipt of the County Engineer's recommendation.

c. **Responsibility of feepayer.** The burden shall be on the feepayer to provide all relevant data, analysis and reports which would assist the Impact Fee Coordinator and, in the case of roads, the County Engineer in making a determination of the appropriate impact fee. The analysis and report must be based on generally accepted methods and the formulas for the specific fee component in the Impact Fee Report, or in the case of roads, the methods and formulas described in this section and below in Sec. 10.8. A feepayer wishing to provide additional information after submitting the initial independent fee calculation study must do so no later than thirty (30) days after the date of the Impact Fee Coordinator's determination of sufficiency. The Impact Fee Coordinator will not accept additional information relevant to an independent fee calculation study after this deadline. If the impact fee is adjusted the feepayer shall provide a copy of the Impact Fee Modification Certificate at the time of permit issuance. Failure to provide a copy of the certificate at the time of permit issuance shall constitute a waiver of any adjusted fee.

d. Decision in writing. The decision of the Impact Fee Coordinator to adjust or to refuse to adjust the impact fee shall be in writing and shall be transmitted to the applicant by certified mail within five (5) days of the decision. An approved adjustment shall be issued in the form of an "Impact Fee Modification Certificate" which shall include information regarding:

1. Project location and name if available;

2. Square foot of project;

3. Adjusted trip generation; and

4. Property control numbers.

6. Covenant running with the land. The Impact Fee Coordinator shall require that a covenant running with the land be executed and recorded on the development's land in cases where:

a. The independent fee calculation is based on a use of land having a lesser impact than that upon which the schedule set forth in the fee component is based; or

b. The development could be put to a use having a greater impact than that proposed in the independent fee calculation study without being required to secure a permit or approval for the use; or

c. For such other reasons that make a covenant necessary to ensure compliance with this article.

7. Appeal.

a. Any applicant may appeal the decision of the Impact Fee Coordinator by filing an appeal with the Impact Fee Appeals Board within fifteen (15) working days of a decision by the Impact Fee Coordinator. The appeal must state with specificity the reasons for the appeal and shall contain such data and documentation upon which the applicant seeks to rely.

b. The Impact Fee Appeals Board shall make a decision on the appeal within sixty (60) working days of its filing. The Impact Fee Appeals Board shall notify the applicant within fifteen (15) working days of the hearing and invite the applicant or the applicant's representative to attend the hearing.

c. At the hearing, the Impact Fee Appeals Board shall provide the applicant and the Impact Fee Coordinator an opportunity to present testimony and evidence, provided such information was part of the review before the Impact Fee Coordinator. The Impact Fee Appeals Board shall reverse the decision of the Impact Fee Coordinator only if there is substantial competent evidence in the record that the Impact Fee Coordinator erred from the standards in this section.

d. Any aggrieved party, including Palm Beach County, may appeal an order of the Impact Fee Appeals Board to the Fifteenth Judicial Circuit Court of Palm Beach County. Such appeal shall not be a hearing de novo, but shall be a petition for Writ of Certiorari and the Court shall be limited to appellate review of the record created before the Board. The County may assess a reasonable fee for the preparation of the record to be paid by the Petitioner in accordance with Sec. 119.07, Fla. Stat., as amended from time to time.

[Ord. No. 93-4] [Ord. No. 95-8] [Ord. No. 95-50]

G. Collection and Administrative Fees.

1. **Timing and collection of payment.**

   a. **Collected at building permit or other development order.** The person applying for issuance of a building permit shall pay the impact fee to the PZB Department, or to the person designated by a municipality to collect the fee (if the municipality is collecting the fee), prior to the issuance of a building permit, or if a building permit is not required, prior to issuance of the development order that authorizes development which places impact on capital facilities for which impact fees are charged.

   b. **Municipality may require direct payment to County.** A municipality who is reviewing its own applications for development permits may opt to have Palm Beach County collect the impact fees, pursuant to interlocal agreement. If Palm Beach County is the permitting authority for the municipality by interlocal agreement, no additional interlocal agreement is necessary for Palm Beach County to collect impact fees for permits issued for that municipality. If Palm Beach County collects the impact fees, the municipality shall not be entitled to the two percent (2%) administrative fee. Palm Beach County shall not charge the municipality for collecting the impact fee. The municipality shall be responsible for ensuring that all impact fees are paid before issuing any building permit or other permit.

   c. **Municipalities are collecting agents.** Municipalities collecting impact fees under this section are acting only as collecting agents for Palm Beach County. Such municipalities shall be responsible to Palm Beach County for the proper collection and remittance of impact fees, but shall not be liable for the inadvertent miscalculation of impact fee amounts.

2. **Administrative fees.** Except for Belle Glade, South Bay, and Pahokee, who shall be entitled to retain four percent (4%) because park, school and road impact fees are not collected, the local government collecting the impact fee shall be entitled to retain two percent (2%) of the funds collected to cover the costs associated with the collection of the impact fees, and in the case of the County, the administration, investment, accounting, expenditure, and auditing of the funds.

3. **Fees transferred to trust funds.**

   a. **Fees collected by County.** All impact fees collected by the County, less the two percent (2%) administrative fee, shall be properly identified by benefit zone for each impact fee component and transferred daily for deposit in the appropriate impact fee trust fund to be held in separate accounts for each impact fee component and each benefit zone.

   b. **Fees collected by municipalities.**

      (1) **On time remittance.** All impact fees collected by the municipalities, less the two percent (2%) administrative fee, shall be remitted to the County Finance Department within fifteen (15) calendar days following the month in which the impact fees are collected. One (1) draft may be used to remit the funds to Palm Beach County. Funds received from the municipalities shall be deposited promptly in the appropriate impact fee trust fund.

(2) **Late remittance.** If the impact fees are not remitted within fifteen (15) calendar days following the month in which the impact fees are collected, the municipality shall forfeit its two percent (2%) administrative fee. In the event the impact fees are not remitted by the twenty-fifth (25th) calendar day of the month following the end of the month in which the impact fees are collected, the municipality shall forfeit its two percent (2%) administrative fee and shall pay simple interest at the statutory rate of twelve (12%) percent per annum on the entire amount accrued to Palm Beach County. Interest shall accrue beginning the first (1st) day of the month following the end of the month in which the impact fees are collected by the municipality. For the purposes of this section, funds shall be considered to have been remitted to Palm Beach County on the date postmarked, if transmitted by certified mail with the proper postage.

(3) **Transfer of receipts.** If receipts are transferred in accordance with Sec. 10.1.G.3.b.(1), the municipalities may retain any interest earned on impact fees collected prior to the transfer of the funds to Palm Beach County in addition to the two percent (2%) to offset the costs of collecting, remitting and accounting for the funds.

4. **Record keeping.** Records shall be maintained by all local governments to ensure proper accounting controls. Palm Beach County shall have the authority to audit the records of any municipality to ensure the procedures and standards of this section are being met by the municipality. Public reports on impact fees shall be provided by the Impact Fee Coordinator on at least a semi-annual basis and distributed to each municipality. Such reports will account for receipts of impact fees for each impact fee, by benefit zone and municipality, and encumbrances and expenditures of the funds by zone.

5. **Impact Fee Coordinator to furnish such information and advice to the municipalities.** The Impact Fee Coordinator shall furnish such information and advice to the municipalities necessary to ensure proper collection, remittance, accounting, controls and auditability.

H. Benefit zones.

1. **Establishment of benefit zones.** One or more impact fee benefit zones are hereby established for each impact fee component. The benefit zones are identified in Secs. 10.2-10.8 for each impact fee component.

2. **Establishment of trust funds.** Separate impact fee trust funds for each impact fee benefit zone for each impact fee component are hereby established for the purpose of earmarking all impact fees so that all expenditures of impact fees sufficiently benefit new development in the benefit zone from which the impact fees were collected.

I. Use of impact fees.

1. **Investment in interest bearing accounts.** All impact fees on deposit in the trust funds shall be invested in interest bearing sources, and the income derived shall be applied to the applicable trust fund.

2. **Limitation within benefit zones.** Impact fees collected shall be used exclusively for new capital facilities for the impact fee component within the impact fee benefit zone from which the fees were collected, except that if an impact or traffic analysis made by a professional experienced in impact analysis and approved by the Impact Fee Coordinator demonstrates that a planned development

substantially and directly impacts the need to expand the capacity of specific public capital facilities in another benefit zone, then impact fees paid by that planned development may be expended on those specific capital facilities in another benefit zone.

3. **Expenditures shall benefit new development.** Impact fees shall be used only for capital facility costs for which the impact fees are levied and which add capacity needed to serve new development.

4. **Non lapsing.** The respective trust funds shall be non-lapsing.

5. **Annual capital facility programs.** Annually, the County Administrator shall present to the Board of County Commissioners a proposed capital improvement program for each public facility for which an impact fee is charged, assigning funds, including any accrued interest, from the several impact fee trust funds to specific improvement projects and related expenses. Monies, including any accrued interest not assigned in any fiscal period shall be retained in the same impact fee trust funds until the next fiscal period, except as provided by the refund provisions of this section.

J. **Refunds.**

1. **General.**

a. **Non-commencement of construction.** If a building permit or other permit requiring payment of an impact fee expires or is canceled or revoked, the structure has not been completed, and no certificate of occupancy has been issued, or if the permit is modified prior to completion of construction so as to change the land use or structure to one of lower impact than that on which the permit was originally issued, and the impact fee paid for approval of the permit has not been encumbered or spent by Palm Beach County, then the feepayer or a successor in interest shall be entitled to a refund if an application for refund is submitted within one (1) year of the permit's expiration, cancellation, revocation or modification, or of the event giving rise to the refund and within three (3) years of the payment of the impact fee, except that Palm Beach County shall retain an additional two percent (2%) of the impact fee to offset the costs of administering the refund.

b. **Untimely encumbrance.**

(1) **Untimely encumbrance.** Notwithstanding section 10.1.J.1.a. above, if Palm Beach County fails to encumber the impact fees paid by the feepayer by the end of the calendar quarter immediately following six (6) years from the date the impact fees are paid, and fails to spend the impact fee within nine (9) years of the end of the calendar quarter in which the impact fees are paid, the feepayer or a successor in interest shall be entitled to a refund except that Palm Beach County shall retain an additional two percent (2%) of the impact fee to offset the costs of refund. The feepayer or successor in interest shall submit an application for refund to the Impact Fee Coordinator pursuant to Sec. 10.1.J.2, within one (1) year following the end of the calendar quarter in which the right to a refund occurs. In determining whether the fee paid by the feepayer has been encumbered or spent, monies in the trust fund shall be considered to be expended on a first in, first out basis; that is, the first fees paid shall be considered the first monies withdrawn.

(2) **Notification of potential refund.** If more than five percent (5%) of the impact fees collected in any fiscal year within any trust fund are unencumbered after the end of the sixth fiscal year following the fiscal year in which the impact fees were collected, Palm Beach County shall notify the present owners of lands for which the unencumbered impact fees were paid of the possibility of a refund. Any claim for a refund of impact fees shall be deemed waived if application for a refund is not received within six (6) months of the mailing or delivery of such notice.

2. **Procedure to obtain refund.**

a. **Submission of application.** An application for refund shall be submitted to the Impact Fee Coordinator.

b. **Contents of application.** The application shall be in a form established by the Impact Fee Coordinator and made available to the public, and shall contain the following:

(1) **Receipt.** A copy of the dated receipt issued for payment of the impact fee;
(2) **Permit.** If the refund is requested due to non-commencement of construction, and the permit was issued by Palm Beach County, the building permit or other permit for which the impact fees were paid;
(3) **Evidence.** If the refund is requested due to non-commencement of construction, evidence that the applicant is the feepayer or a successor in interest to the feepayer;
(4) **Documents.** If the refund is requested due to the County's failure to encumber or spend funds, a notarized sworn statement that the applicant is the current owner of the land for which the impact fee was paid, a certified copy of the current deed, and a copy of the most recent ad valorem tax bill;
(5) **Cancellation of permit.** If relevant, proof from the municipality that the permit has been canceled, and a copy of the permit issued by the municipality;
(6) **Date fund forwarded.** If relevant, the date on which the municipality forwarded the funds to Palm Beach County.

c. **Determination of sufficiency.** The Impact Fee Coordinator shall determine if the application is sufficient within five (5) working days.

(1) **Sufficiency.** If the Impact Fee Coordinator determines the application is not sufficient, a written notice shall be mailed to the applicant specifying the deficiencies. No further action shall be taken on the application until the deficiencies are remedied.
(2) **Notification.** If the application is determined sufficient, the Impact Fee Coordinator shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review pursuant to the procedures and standards of this section.

d. **Action by Impact Fee Coordinator.** Within forty-five (45) working days after the application is determined sufficient, the Impact Fee Coordinator shall review and approve or deny the application based upon the standards in Sec. 10.1.J.1, above.

e. Appeal.

(1) Regulation. The decision of the Impact Fee Coordinator may be appealed pursuant to Sec. 10.1.F.7.

[Ord. No. 95-8]

K. Credits.

1. General. Credit against impact fees shall be given to the feepayer or a successor in interest to the property for the following, as limited or permitted by specific provisions of this section.

a. Redevelopment of existing building/change in land use.

(1) Determination.Where alteration, expansion or replacement of a building or unit, or a change in land use which involves any increase in the number of units or square footage, or a change in use resulting in new impacts on a capital facility for which the impact fee is assessed, existing use credit shall be given for the number of existing units or square feet based upon the previous land use and impact fees shall only be assessed on the increased impact. The burden of verifying the previous land use and units or square footage as applicable shall be on the feepayer.

(2) Certification. In the case of an addition to an existing residential building, the feepayer shall provide to the local government issuing the building permit a certification of an architect, engineer, surveyor, contractor, or the building official having jurisdiction, setting forth the square footage of the existing building. In the case of an addition to an existing residential building, the feepayer, at the feepayer's sole option, may pay the impact fee for the addition as if it alone were a new building rather than provide the certification setting forth the square footage of an existing building.

(3) Abandoned Use. A use of a structure or land which has been abandoned shall be considered existing for the purposes of calculating existing use credit pursuant to this section. The burden of verifying the previous land use and units or square footage as applicable shall be on the feepayer. The provisions of this paragraph 10.1.K.1.a.(3) shall sunset at 5:00 p.m. on December 1, 2003, unless otherwise renewed by the Board of County Commissioners.

(4) Effective Date. Section 10.1.K.1.a. shall apply to redevelopment for which building permits were issued on or after July 1, 1995.

b. Special district assessments. A credit shall be given against the impact fee component where, upon prior approval by Palm Beach County, the same new capital facility is provided by a special district rather than Palm Beach County and the feepayer is assessed for the new capital facility.

c. In-kind contributions. In-kind contributions made by a development to Palm Beach County shall be credited against the development's impact fees, but only to the impact fee component for which the in-kind contribution is made. For example, credits received for a park contribution may be applied only against park impact fees and not against fire-rescue impact fees. No credit shall be given for in-kind contributions that are not new capital facilities or which were not made for capital facilities costs.

(1) Time for giving of credit. Credit shall be given for land at such time as marketable title in fee simple absolute is conveyed to the County, free of encumbrances with such documentation and requirements set by the Board of County Commissioners or the County Administrator or the acceptance of real property. Credit shall be given for personal property at such time as a bill of sale absolute and, where applicable, title for such property is delivered to the County. Credit shall be given at such time as the funds are delivered to the County.

(2) **In-kind contributions made prior to October 1, 1989, for facilities other than roads.** In the case of in-kind contributions other than road facilities made to Palm Beach County prior to October 1, 1989, and except as specifically provided in the development order or Development Agreement, the value of the in-kind contribution at the time of its conveyance, dedication, construction, placement, delivery or remittance shall be apportioned between building permits for which a complete application was made prior to October 1, 1989 and building permits in the development which remain to be issued and for which no complete application was made as of October 1, 1989. The portion of the value allocated to building permits made on or after October 1, 1989, shall be adjusted to its present value as of October 1, 1989, using a compound interest rate of six (6) percent per year, compounded quarterly. Only that portion of the contribution allocated to building permits for which a complete application was filed on or after October 1, 1989, shall be credited against impact fees. For the purpose of apportioning the contribution between uses and square footage or dwelling units, the number of permits shall be determined using the most recently approved master plan or site plan, the size and use of the buildings proposed for the remainder of the development, the effect of other land development regulations on the feepayer's ability to complete the development as proposed, and other information deemed relevant by the Impact Fee Coordinator. If the conveyance, dedication, construction, placement, delivery or remittance was required to be made prior to October 1, 1989, pursuant to a condition in a development order, a Development Agreement, or otherwise required by a local government, the value of the conveyance shall be established as of the required date of contribution. The present value of the contribution as of October 1, 1989 shall be established at six (6) percent per year from the required date of the contribution. The apportionment of the value of the contribution to building permits shall be based on the date on which the contribution was to have been made. At the option of the feepayer, any remaining credit may be adjusted by the percentage change in the cost of the capital facility when Palm Beach County reviews capital facilities costs in the review and update process.

(3) **In kind contributions for road facilities prior to March 1, 1989.** In- kind contributions for road facilities from developments in municipalities not previously subject to road impact fees shall be apportioned according to the provisions in Sec. 10.1.K.1.c.(2) except that the effective date for apportionment of the credit shall be March 1, 1989.

(4) **In-kind contributions made after October 1, 1989, except road facility contributions.** The standards of this section shall apply to the valuation of any in-kind contribution made after October 1, 1989, except as provided elsewhere in this article.

(5) **Valuation of In Kind Road Facility Contribution.** If the value of the in-kind contribution increase (as evidenced by an increase in Road Impact Fee rates) between the time of the in-kind contribution and the time of the issuance of a building permit, the developer may apply for additional credit by submitting an independent calculation to the Impact Fee Coordinator, for review by the Palm Beach County Engineering Department. Such application must be made within six (6) months of the effective date of a road impact fee increase, or this right shall be waived. The independent calculation must be prepared by a state registered engineer or a professional in impact analysis and must demonstrate that the current cost of reproducing the road construction has increased and therefore the value of the in-kind contribution has correspondingly increased. Any additional credit shall not exceed the percentage of increase of the road impact fee.

d. **Credits for contributions to local governments other than Palm Beach County.** Contributions of or for new capital facilities to a local government other than Palm Beach County or by a special district may be given only upon an application to the Impact Fee Coordinator. Approval of the Impact Fee Coordinator must be obtained prior to the contribution for all such contributions made after October 1, 1989. The Impact Fee Coordinator, after consultation with the agency charged with supervising the provision of the new capital facility, shall determine whether the contribution shall receive a credit based on the following standards:

(1) **Consistency.** Consistency with the Comprehensive Plan as to the cost, location, and size of the facility and its timing;
(2) **Amount.** The amount that would be spent by Palm Beach County if it were to construct the same new capital facility;
(3) **Extent.** The extent to which the new capital facility provides the same or similar functions as the new capital facility for which the credit is sought;
(4) **Continuity.** The extent of control that Palm Beach County has in ensuring that the new capital facility will continue to provide the same or similar functions;
(5) **Availability.** Whether the new capital facility is open or available to all persons regardless of residency;
(6) **Plans.** The short and intermediate-range plans of the agency which would receive the impact fee funds regarding the timing, location, cost and size of the new capital facility;
(7) **Impact.** The impact of encouraging new development in the area that would be served by the new capital facility or the ability of local government or the special district to provide other needed infrastructure and services;
(8) **Pattern.** The pattern of development and its relationship to other development, infrastructure, and resources that could result from encouraging new development; and
(9) **Budget.** The budget of Palm Beach County and other local governments, and the allocation of revenues within those local governments.

e. **Special provisions for park credits.** No credit shall be given for park contributions or dedications required by Sec. 17.1, Community and neighborhood park recreation standards. No such contribution or dedication shall be used for County District, Regional or Beach parks. Contributions for County parks resulting from Art. 11, Adequate Public Facility Standards, shall be credited as provided above. In-kind contributions of capital facilities which are not County District, Regional, or Beach parks shall be provided partial credit as follows:

(1) **Forty to sixty acres.** Seventy-five (75) percent of the value at the time of conveyance, dedication, construction, placement, delivery or remittance shall be credited in accordance with the other provisions of this section for contributions for or of County parks less than sixty (60) acres but equal to or more than forty (40) acres;
(2) **Twenty to forty acres.** Fifty (50) percent of the value at the time of conveyance, dedication, construction, placement, delivery or remittance shall be credited in accordance with the other provisions of this section for contributions for or of County parks less than forty (40) acres but equal to or more than twenty (20) acres;
(3) **Twenty acres or less.** Twenty-five (25) percent of the value at the time of conveyance, dedication, construction, placement, delivery or remittance shall be credited in accordance with the other provisions of this section for contributions for or of County parks less than twenty (20) acres.

f. Special provisions for school credits.

(1) **General.** Dedications of land for use as school may, if accepted by the School Board, be credited against school impact fees. The School Board or the Superintendent shall have responsibility for evaluating, according to the standards contained herein, a proposed dedication under this subsection. An application for a dedication credit shall be in a form prescribed by Palm Beach County, and shall contain such information as to guide the School Board and Superintendent in reviewing the application for consistency with these standards. If any credit against any school impact fees is given, the dedication shall be credited in an amount equal to its full fair market value at the time of dedication, and shall not exceed the full dedication cost. The proposed dedication shall comply with, and be reviewed considering, the following standards:

(a) **Location.** The proposed dedication shall be located so as to provide the greatest access to students. If a single development will not generate sufficient students to fill a school, it should be located so as to be easily accessible to students from neighboring areas.

(b) **Distance.** The proposed dedication shall create an appropriate distance between existing or planned schools: one (1) mile for elementary schools, two (2) miles for middle schools, and three (3) miles for high schools.

(c) **Hazards.** The proposed dedication and surrounding areas shall be free from health or safety hazards and shall be protected against noise, air pollution and/or odors.

(d) **Access.** The proposed dedication shall be accessible from two (2) different streets, with one (1) street preferably a collector street. This standard shall be waived for elementary or middle schools if access is available on one (1) street from two (2) directions. Dedications should not be located on arterial roads; however, if such dedications are proposed, they may be considered if provision is made for the construction of overpasses or pedestrian lights. The construction of median cuts, left turn lanes and storage lanes shall be practicable to facilitate access to the proposed dedication by buses and automobiles.

(e) **Safe transit.** The proposed dedication shall be located so as to facilitate safe transit to neighboring areas by sidewalks, walkways and/or bike paths.

(f) **Services.** The proposed dedication shall be evaluated for the availability of central water and sewer, electricity and phone services and for its proximity to fire hydrants.

(g) **Entrances.** All proposed dedications shall allow at least two (2) separate entrances for school buses and staff; high school dedications shall also provide separate entrances for students and parent drop off. All dedications shall allow for adequate parking for buses; elementary and middle school dedications shall allow for parking for one hundred twenty (120) staff automobiles, high schools dedications shall allow for two hundred twenty five (225) staff and four hundred twenty five (425) student parking spaces.

(h) **Minimum size/dimensions.** In addition to providing sufficient area to accommodate on site retention of stormwater, proposed school dedications shall be of the following minimum sizes and shall have the following minimum dimensions: elementary schools shall have a minimum site size of fifteen (15) acres, with a minimum seven hundred eighty (780) feet of frontage and eight hundred forty (840) feet of depth; middle schools shall have a minimum site size of twenty-five (25) acres, with a minimum frontage of eight hundred (800) feet and a depth of one thousand three hundred and sixty (1360) feet; high schools shall have a minimum site size of fifty (50) acres, with a minimum frontage of one thousand two hundred (1200) feet and a depth of one thousand eight hundred (1800) feet.

(i) **Bus stops.** When the school dedication is located within a residential development, provision of a circulation system or turnaround area with a ninety (90) foot diameter shall be available so that buses need not back up to leave the development. Bus stop locations, preferably located adjacent to a public area such as a park, shall be provided so that buses do not have to enter the development.

(j) **Consistency.** The dedication shall be examined for consistency of the proposed use with applicable comprehensive plans, land development regulations, and concurrency provisions.

(2) **Consideration and acceptance by School Board.** All applications for a school credit shall be reviewed and a response issued by the Superintendent or the School Board within sixty (60) working days of the submission of the application. If the request is approved, the Superintendent shall notify the Impact Fee Coordinator, and if other than Palm Beach County, the local government issuing the development permit. The Impact Fee Coordinator shall determine the value or the credit. No credit shall be given until the dedication is conveyed to the School Board in accordance with this section.

(3) **Conveyance to the School Board.** To convey dedications to the School Board, the feepayer shall provide, at no cost to the School Board and in a form approved by the School Board's attorney, the following documents:

(a) **Abstract of title.** A complete and current abstract of title together with a title insurance commitment to insure the property in a sum agreed to by the School Board, such to be delivered to the School Board;

(b) **Warranty deed.** A warranty deed, along with sufficient funds to record the deed, to be delivered to the School Board or the title insurance agent;

(c) **Taxes.** Evidence that taxes for the current year have been placed in escrow pursuant to Sec. 196.296, Fla. Stat., as amended, or that the taxes have been paid;

(d) **Insurance.** A completed title insurance policy issued subsequent to the recording of the deed and the escrow of taxes.

(4) **Return of School Dedication.** In the event that a dedication accepted by the School Board is not utilized within ten (10) years of its conveyance, the grantor may request that the dedication be reconveyed by the School Board to the grantor, in which case the School Board shall reconvey the dedication.

g. Special provisions for road credits.

(1) **General.** In lieu of paying the road impact fee, the feepayer may elect to propose construction of a portion of the major road network system in addition to any required site related improvements. The feepayer shall submit the proposed construction along with a certified engineer's cost estimate to the Impact Fee Coordinator, with a copy to the County Engineer. The County Engineer shall determine if the proposed construction is a desirable and appropriate substitute for the road impact fee, based on the following criteria:

(a) The proposed road construction must be on the major road network;

(b) The proposed road construction must not be site-related improvements;

(c) The proposed road construction must be required to meet the requirements of Traffic Performance Standards for the development as defined in Sec. 15.1.

Exceptions to criterion (c), above, may only be made upon approval of the Board of County Commissioners. No exceptions shall be made to criteria (a) and (b).

If the proposed road construction meets the criteria for credit, the County Engineer shall determine the amount of credit to be given, and the timetable for completion of the proposed construction, and shall recommend the approval and the amount of credit to the Impact Fee Coordinator. The amount of credit shall be the amount approved by the County Engineer based upon the certified cost estimate for the creditable work. Where the proposed construction is a major project (defined as construction cost in excess of $200,000) these funds shall be provided to Palm Beach County. Using these funds, the project shall be administered as to plans, right-of-way and construction by Palm Beach County. This procedure whereby the construction of major thoroughfare plan projects will be accomplished by Palm Beach County may be waived only by the Board of County Commissioners upon the recommendation of the County Engineer.

(2) **Credits for construction within site.** Where a proposed major road network runs through a development and where the feepayer is required to construct two (2) lanes of the road, the feepayer may elect, upon submission of a certified cost estimate to the Impact Fee Coordinator and upon the recommendation of the County Engineer and the approval of the Impact Fee Coordinator, to construct more than two (2) lanes and receive credit for the additional cost of the additional lanes constructed. In addition to all other site-related improvements, the primary two (2) lanes within the site's boundaries shall be considered site-related.

(3) **Other costs credited.**

(a) **Off-site right-of-way acquisition.** The cost of major road network rights-of-way acquired at the cost of the feepayer shall be credited where the right-of-way is outside of the site, and not site related. The costs shall be approved by the County Engineer and the Impact Fee Coordinator based upon the appraised value of the land acquired. The credit shall not exceed the appraiser's approved value, except in the event that a settlement of, or in lieu of, condemnation results in payment in excess of the appraiser's value, in which case credit shall not exceed the amount paid. Cost incurred by Palm Beach County in acquiring such off-site right-of-way which are paid for by the feepayer shall be credited to the feepayer.

(b) **Plan preparation.** Costs of plan preparation for major road network construction shall be credited if approved by the County Engineer and the Impact Fee Coordinator based upon reasonable costs associated with the preparation of such plans.

(c) **Costs creditable.** Credit shall be given only for the cost of plans preparation, off-site right-of-way acquisition, and/or construction.

h. **Application of credits.** The credit shall be applied to the respective full impact fee associated with the first building permits issued for the development for which complete application was made on or after October 1, 1989, or if the credit is for roads, the date upon which the road impact fee was effective within the development, until the credit is exhausted. After such exhaustion the remainder of the impact fee for which a credit was obtained shall be paid in full. The credit shall be calculated and applied in dollar amounts and not in number of permits.

i. **Special allocation of credits.** Provided that the conditions of this Subsection are satisfied, the fee payer making an in-kind contribution, or its heirs, assigns or successors in interest, may have all or some portion of the resulting credit allocated to specific parcels within the benefitted development.

(1) **Past administrative practices to continue.** Notwithstanding any other provisions of this subsection, if fair share contributions have been prorated or assigned to a portion of a development through past practices, no application for a special allocation need be made, provided that a covenant is executed in accordance with Sec. 10.1.K.1.i.(5), below.

(2) **Application for special allocation.** Unless expressly prohibited by a development order, any feepayer who makes an in-kind contribution may petition the Board of County Commissioners for a special allocation of the respective impact fee credit by filing an application with the Impact Fee Coordinator. For in-kind contributions made after October 1, 1989, the application shall be made concurrently with the contribution. Only one (1) special allocation shall be made for each in-kind contribution made by the fee payer.

(a) **Parcels identified.** The application shall state the purpose for which the special allocation is desired and shall clearly identify by legal description the specific parcel or parcels of land within the development to which the credit is allocated; and

(b) **Notice requirements.**

(i) **Mailing.** Prior to scheduling the application for a Special Allocation for consideration by the Board of County Commissioners, the Applicant shall, at its own cost, provide appropriate courtesy notice to all owners of record of any undeveloped land within the affected development. The courtesy notice shall be by certified mail, return receipt requested, to the person whose name appears in the last approved ad valorem tax records of the Palm Beach County Property Appraiser's Office. The notice shall briefly state the nature of the Special Allocation application and request the recipient to submit, to the Impact Fee Coordinator within no more than fifteen (15) days of receipt, any relevant information the recipient may have bearing on the Applicant's right to a Special Allocation.

(ii) **Advertisement.** In addition, the Applicant at its own cost shall place a notice of the proposed Special Allocation in a newspaper of general circulation within Palm Beach County. Such notice shall appear no later than ten (10) days prior to a final decision by the Board of County Commissioners to grant or deny the application. The costs of advertisement shall be borne by the Applicant.

(3) **The approval process.** The Board of County Commissioners shall approve the application for a special allocation provided that:

(a) **No bona fide claim presented.** No substantial, competent evidence is presented by a third party that would constitute prima facie evidence of a bona fide claim to any portion of the impact fee credit assigned to the affected development.

(4) **Application fee provided.** The Board of County Commissioners may establish a reasonable fee for processing of applications for special allocations. Any such fee duly established by the Board of County Commissioners shall be paid at the time the application for special allocation is submitted.

(5) Covenant. The applicant shall execute a covenant supported by separate consideration from Palm Beach County. This covenant shall provide that the applicant, its heirs assigns and successors in interest shall indemnify hold harmless, and defend Palm Beach County against any and all claims for credits not received by other owners or developers of undeveloped land within the planned development. A joinder and consent of the mortgagee of the land benefitted by the special allocation, if any, supported by separate consideration shall also be executed in recordable form acceptable to the County Attorney. The Impact Fee Coordinator shall, at the sole expense of the applicant, record the instruments in the official records of the Clerk of the Circuit Court in and for Palm Beach County.

2. Appeal. The decision of the Impact Fee Coordinator may be appealed pursuant to Sec. 10.1.F.7.

3. Time to Claim Credit – Responsibility of Feepayer. Any claim for credit as established in section 10.1.K.1. of this Ordinance must be made no later than at the time of building permit issuance. Any claim not so made shall be deemed waived.

[Ord. No. 93-4] [Ord. No. 95-8] [Ord. No. 95-50]

L. Covenants. Where necessary to ensure compliance with the provisions of this article, the Impact Fee Coordinator shall require that a covenant be executed by the feepayer holding the fee simple interest in the land, and mortgagee as appropriate. The covenant shall recite this article and the facts and reasons underlying its execution. It shall set forth restrictions on the land and the terms and conditions under which it may be released.

M. Vesting. Only the existence of a building permit that has not expired, lapsed, or been revoked, canceled or abandoned shall vest a feepayer against any changes in the amount of impact fees exacted. No vesting against changes in the amount of impact fees shall result from the issuance of any development order, other than as set forth in this subsection.

N. Action if impact fees are unpaid.

1. Negotiable instrument is invalid. In the event impact fee funds which were paid by check, draft or other negotiable instrument do not clear, the building permit or development order authorizing the development for which impact fees were paid shall be suspended. The local government which issued the building permit or development order shall send by certified mail notice to the applicant using a form provided by the County. If the impact fees, together with any charges for the checks not clearing, are not paid within ten (10) working days following mailing of the notice, the building permit or development order shall be of no further force and effect for purposes of this Code and a stop work order shall be issued and not lifted until such time as the fair share fees are paid.

2. Lien. If through error, omission, or intent, impact fees are not paid in full, the amount unpaid, together with statutory interest accruing from thirty (30) calendar days following the date written notice by certified mail, return receipt requested, is sent to the developer, permittee, or the then-present property owner, shall be a lien against the land containing the development for which the impact fees are due. Notice of the lien shall be recorded in the official records of the Clerk of the Circuit Court for Palm Beach County. The lien shall have priority over all liens, mortgages and encumbrances, except taxes. No lien shall be recorded later than three (3) years following the date on which the building permit is issued for the development against which impact fees are due, although the debt shall

remain. If the lien remains unpaid for more than thirty (30) calendar days following the recording of the notice, it may be foreclosed in the manner provided by state law for the foreclosure of mortgages on real property.

3. **Withholding development orders.** In the event that any impact fee is unpaid, no further development order shall be issued for the land for which the impact fees remain unpaid, and no development order shall be issued until any previously owed impact fees, together with day interest owing, along with any current impact fees, are paid.

4. **Notification construction industry licensing board.** In the event that any building permittee who is a contractor certified by the Palm Beach County Construction Licensing Board fails to pay an impact fee for which the permittee is responsible, the County Attorney shall file a verified written complaint with the Palm Beach County Construction Licensing Board recommending disciplinary action as is provided by the laws of Florida, Chapter 489, as amended. The verified complaint shall contain a summary of the fees owed and the efforts made by Palm Beach County to collect the fees. **[Ord. No. 93-4; February 2, 1993][Ord. No. 95-8; March 21, 1995]**

SEC. 10.2 COUNTY DISTRICT, REGIONAL, AND BEACH PARKS IMPACT FEE.

A. **Imposition of fee.** Impact fees are imposed upon all land uses creating an impact on County District, Regional, and Beach parks in accordance with Sec. 10.1.D and this section.

B. **Schedule of lower fees for municipalities.** Special provisions establishing a schedule of lower fees for municipalities providing like capital facilities are set forth in this section pursuant to section 1.3(2) of the county charter. For purposes of this section, "like capital facilities" is broadly construed so as to include partial "credits" for municipal parks which are not district, regional or beach parks but which perform a similar function.

Municipal schedules are based upon a sliding scale depending on the size and function of the municipal park facilities and the extent of access to beaches based upon the shoreline management plan standards.

The permutations of the schedules are as follows:

	District	Beach	Regional
Unincorporated	100%	100%	100%
Schedule A	100%	100%	100%
Schedule B	75%	100%	100%
Schedule C	50%	100%	100%
Schedule D	25%	100%	100%
Schedule E	0%	100%	100%
Schedule F	100%	75%	100%
Schedule G	75%	75%	100%
Schedule H	50%	75%	100%
Schedule I	25%	75%	100%
Schedule J	0%	75%	100%
Schedule K	100%	50%	100%
Schedule L	75%	50%	100%

Schedule M	50%	50%	100%
Schedule N	25%	50%	100%
Schedule O	0%	50%	100%
Schedule P	100%	25%	100%
Schedule Q	75%	25%	100%
Schedule R	50%	25%	100%
Schedule S	25%	25%	100%
Schedule T	0%	25%	100%
Schedule U	100%	0%	100%
Schedule V	75%	0%	100%
Schedule W	50%	0%	100%
Schedule X	25%	0%	100%
Schedule Y	0%	0%	100%

Where the percentage shown in each column represents the percentage of the total net cost of the park impact fee which must be paid for district, beach and regional parks.

C. Fee schedule. The fee schedule for County District, Regional and Beach parks is established in Tables 10.2-1 through 10.2-14. To ensure that the impact fee does not exceed the cost to provide capital facilities to accommodate new development, the impact fees in the fee schedule are established at no more than ninety-five (95) percent of the cost to accommodate the impact.

TABLE 10.2-1
PARKS AND RECREATION FEE SCHEDULE
FOR UNINCORPORATED PALM BEACH COUNTY

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.640	$ 671.33	$ 183.09	$ 488.24	$ 94.50	$ 393.74
Dwelling unit, 801 - 1,399 sq. ft.	2.000	818.70	223.28	595.42	96.59	498.83
Dwelling unit, 1,400 - 1.999 sq. ft.	2.517	1030.33	281.00	749.33	99.46	649.87
Dwelling unit, 2,000 - 3,599 sq. ft.	3.034	1,241.97	338.72	903.72	102.33	800.92
Dwelling unit, 3,600 sq. ft. and over	3.832	1,568.63	427.80	1,140.83	107.00	1,033.83
Hotel/Motel Per Room	0.875	358.18	97.69	260.49	90.91	169.58

TABLE 10.2-2

PARKS AND RECREATION FEE SCHEDULE
FOR SCHEDULE "A" MUNICIPALITIES*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Impact Fee	Park Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.640	$ 671.33	$ 183.09	$ 488.24	$ 94.50	$ 393.74
Dwelling unit, 801 - 1,399 sq.ft.	2.000	818.70	223.28	595.42	96.59	498.83
Dwelling unit, 1,400 - 1.999 sq. ft.	2.517	1,030.33	281.00	749.33	99.46	649.87
Dwelling unit, 2,000 - 3,599 sq. ft.	3.034	1,241.87	338.72	903.25	102.33	800.92
Dwelling unit, 3,600 sq. ft. and over	3.832	1,568.63	427.80	1,140.83	107.00	1,033.83
Hotel/Motel Per Room	0.875	358.18	97.69	260.49	90.91	169.58

*Schedule "A" municipalities consist of Atlantis, Cloud Lake, Glen Ridge, Golf Village, Golfview, Haverhill, Hypoluxo, Lake Clark Shores, and Mangonia Park.

TABLE 10.2-3
PARKS AND RECREATION FEE SCHEDULE FOR
SCHEDULE "B" MUNICIPALITIES*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.640	$ 630.44	$183.09	$ 447.35	$ 82.15	$ 365.20
Dwelling unit, 801 - 1,399 sq. ft.	2.000	768.83	223.28	545.55	81.52	464.03
Dwelling unit, 1,400 - 1,999 sq. ft.	2.517	967.58	281.00	686.58	80.50	606.08
Dwelling unit, 2,000 - 3,599 sq. ft.	3.034	1,166.32	338.72	827.60	79.46	748.14
Dwelling unit, 3,600 sq. ft. and over	3.832	1,473.08	427.80	1,045.28	78.11	967.17
Hotel/Motel Per Room	0.875	336.36	97.69	238.67	84.29	154.38

*Schedule "B" municipalities consist of Greenacres, Lake Park, and Palm Springs.

TABLE 10.2-4
PARKS AND RECREATION FEE SCHEDULE FOR
SCHEDULE "C" MUNICIPALITIES*

THIS TABLE HAS BEEN DELETED IN ITS ENTIRETY.

TABLE 10.2-5
PARKS AND RECREATION FEE SCHEDULE FOR
SCHEDULE "E" MUNICIPALITY*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.640	$ 507.77	$183.09	$ 324.68	$ 45.07	$ 279.61
Dwelling unit, 801 - 1,399 sq. ft.	2.000	619.23	223.28	395.95	36.28	359.67
Dwelling unit, 1,400 - 1,999 sq. ft.	2.517	779.30	281.00	498.30	23.57	474.73
Dwelling unit, 2,000 - 3,599 sq. ft.	3.034	939.37	338.72	600.65	30.03	570.62
Dwelling unit, 3,600 sq. ft. and over	3.832	1,186.44	427.80	758.64	0.00	758.64
Hotel/Motel Per Room	0.875	270.91	97.69	173.22	64.39	108.83

*Schedule "E" municipality consists of West Palm Beach, Royal Palm Beach and Palm Beach Gardens.

TABLE 10.2-6
PARKS AND RECREATION FEE SCHEDULE FOR
SCHEDULE "F" MUNICIPALITIES*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.640	$ 620.59	$183.09	$437.50	$ 90.84	$ 346.66
Dwelling unit, 801 - 1,399 sq. ft.	2.000	756.81	223.28	533.53	92.11	441.42
Dwelling unit, 1,400 - 1,999 sq. ft.	2.517	952.45	281.00	671.45	93.83	577.62
Dwelling unit, 2,000 - 3,599 sq. ft.	3.034	1,148.09	338.72	809.37	95.54	713.83
Dwelling unit, 3,600 sq. ft. and over	3.832	1,450.05	427.80	1,022.25	98.41	923.84
Hotel/Motel Per Room	0.875	331.11	97.69	233.42	88.90	144.52

*Schedule "F" municipalities consist of Gulfstream, Highland Beach, Manalapan, and South Palm Beach.

TABLE 10.2-7
PARKS AND RECREATION FEE SCHEDULE FOR
SCHEDULE "I" MUNICIPALITY*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.640	$ 497.91	$183.09	$ 314.82	$ 53.76	$ 261.06
Dwelling unit, 801 - 1,399 sq. ft.	2.00	607.21	223.28	383.93	46.88	337.05
Dwelling unit, 1,400 - 1,999 sq. ft.	2.517	764.17	281.00	483.17	36.91	446.26
Dwelling unit, 2,000 - 3,599 sq. ft.	3.034	921.13	338.72	582.41	26.93	555.48
Dwelling unit, 3,600 and Over sq. ft.	3.832	1,163.41	427.80	735.61	36.78	698.83
Hotel/Motel Per Room	0.875	265.65	97.69	167.96	69.00	98.96

*Schedule "I" municipality consists of Tequesta.

TABLE 10.2-8
PARKS AND RECREATION FEE SCHEDULE FOR
SCHEDULE "J" MUNICIPALITY*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.640	$ 457.02	$183.09	$ 273.93	$ 41.40	$ 232.53
Dwelling unit, 801 - 1,399 sq. ft.	2.000	557.34	223.28	334.06	31.81	302.25
Dwelling unit, 1,400 - 1,999 sq. ft.	2.517	701.41	281.00	420.41	21.02	399.89
Dwelling unit, 2,000 - 3,599 sq. ft.	3.034	845.48	338.72	506.76	25.34	481.42
Dwelling unit, 3,600 sq. ft. and over	3.832	1,067.86	427.80	640.06	32.00	608.06
Hotel/Motel Per Room	0.875	243.84	97.69	146.15	62.37	83.78

*Schedule "J" municipality consists of North Palm Beach.

TABLE 10.2-9
PARKS AND RECREATION FEE SCHEDULE FOR
SCHEDULE "K" MUNICIPALITY*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.640	$ 569.82	$183.09	$ 386.73	$ 87.16	$ 299.57
Dwelling unit, 801 - 1,399 sq. ft.	2.000	694.91	223.28	471.63	87.62	384.01
Dwelling unit, 1,400 - 1,999 sq. ft.	2.517	874.54	281.00	593.54	88.18	505.36
Dwelling unit, 2,000 - 3,599 sq. ft.	3.034	1,054.17	338.72	715.45	88.73	626.72
Dwelling unit, 3,600 sq. ft. and over	3.832	1,331.44	427.80	903.64	89.80	813.84
Hotel/Motel Per Room	0.87	304.02	97.69	206.33	86.86	119.47

*Schedule "K" municipality consists of Ocean Ridge.

TABLE 10.2-10
PARKS AND RECREATION FEE SCHEDULE FOR
SCHEDULE "P" MUNICIPALITIES*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.640	$ 406.26	$183.09	$ 223.17	$ 37.72	$ 185.45
Dwelling unit, 801 - 1,399 sq. ft.	2.000	495.43	223.28	272.15	27.31	244.84
Dwelling unit, 1,400 - 1,999 sq. ft.	2.517	623.50	281.00	342.50	17.13	325.37
Dwelling unit, 2,000 - 3,599 sq. ft.	3.034	751.57	338.72	412.85	20.64	392.21
Dwelling unit, 3,600 sq. ft. and over	3.832	949.25	427.80	521.45	26.07	495.38
Hotel/Motel Per Room	0.875	216.75	97.69	119.06	60.34	58.72

*Schedule "P" municipalities consist of Briny Breezes, Juno Beach, Jupiter Inlet Colony, and Palm Beach Shores.

TABLE 10.2-11

PARKS AND RECREATION FEE SCHEDULE FOR SCHEDULE "U" MUNICIPALITY*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.640	$ 468.31	$183.09	$ 285.22	$ 79.81	$ 205.41
Dwelling unit, 801 - 1,399 sq. ft.	2.000	571.11	223.28	347.83	78.65	269.18
Dwelling unit, 1,400 - 1,999 sq. ft.	2.517	718.75	281.00	437.75	76.90	360.85
Dwelling unit, 2,000 - 3,599 sq. ft.	3.034	866.38	338.72	527.66	75.14	452.52
Dwelling unit, 3,600 sq. ft. and over	3.832	1,094.26	427.80	666.46	72.59	593.87
Hotel/Motel Per Room	0.875	249.86	97.69	152.17	82.81	69.36

*Schedule "U" municipality is Lantana.

TABLE 10.2-12
PARKS AND RECREATION FEE SCHEDULE FOR SCHEDULE "W" MUNICIPALITIES*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. or under	1.640	$ 386.53	$183.09	$ 203.44	$ 55.09	$ 148.35
Dwelling unit, 801 - 1,399 sq. ft.	2.000	471.38	223.28	248.10	48.49	199.61
Dwelling unit, 1,400 - 1,999 sq. ft.	2.517	593.23	281.00	312.23	38.95	273.28
Dwelling unit, 2,000 - 3,599 sq. ft.	3.034	715.08	338.72	376.36	29.40	346.96
Dwelling unit, 3,600 sq. ft. and over	3.832	903.16	427.80	475.36	23.77	451.59
Hotel/Motel Per Room	0.875	206.23	97.69	108.54	69.55	38.99

*Schedule "W" municipality is Riviera Beach.

TABLE 10.2-13
PARKS AND RECREATION FEE SCHEDULE FOR SCHEDULE "X" MUNICIPALITY*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	Discount	Net Park Impact Fee
Dwelling unit, 800 sq. ft. and under	1.640	$ 345.64	$183.09	$ 162.55	$ 42.73	$ 119.82
Dwelling unit, 801 - 1,399 sq. ft.	2.000	421.51	223.28	198.23	33.42	164.81
Dwelling unit, 1,400 - 1,999 sq. ft.	2.517	530.47	281.00	249.47	19.98	229.49
Dwelling unit, 2,000 - 3,599 sq. ft.	3.034	639.43	338.72	300.71	15.04	285.67
Dwelling unit, 3,600 sq. ft. and Over	3.832	807.61	427.80	379.81	13.99	360.82
Hotel/Motel Per Room	0.875	184.41	97.69	86.72	62.92	23.80

*Schedule "X" municipality is Palm Beach.

TABLE 10.2-14

PARKS AND RECREATION FEE SCHEDULE FOR SCHEDULE "Y" MUNICIPALITIES*

Land Use Type	Persons Per Unit	Cost Per Unit	Credits	Park Impact Fee	Discount	Net Park Impact Fee
Dwelling unit, 800 sq.ft. and under	1.640	$ 304.74	$183.09	$ 121.65	$ 30.37	$ 91.28
Dwelling unit, 801 - 1,399 sq. ft.	2.000	371.64	223.28	148.36	18.34	130.02
Dwelling unit, 1,400 - 1,999 sq. ft.	2.517	467.71	281.00	186.71	9.34	177.37
Dwelling unit, 2,000 - 3,599 sq. ft.	3.034	563.78	338.72	225.06	11.25	213.61
Dwelling unit, 3,600 sq.ft. and over	3.832	712.06	427.80	284.26	14.21	270.05
Hotel/Motel Per Room	0.875	162.59	97.69	64.90	48.67	16.23

*Schedule "Y" municipalities consist of Boca District, Boynton Beach, Delray Beach, Lake Worth, and Jupiter.

[Ord. No. 95-8]

D. **Benefit zones.**

1. **Establishment of benefit zones.** Four (4) park impact fee benefit zones are hereby established as follows:

   a. **Benefit zone 1 (North).** Beginning at the water's edge of the Atlantic Ocean and the northern boundary of Palm Beach County as described in Sec. 7.50, Fla. Stat., "County Boundary"; thence

      (1) Westerly along said north boundary to the west line of Range 39 East; thence
      (2) Southerly along said west line to the South Florida Water Management District Levee 8 Canal; thence
      (3) Southeasterly along said Levee 8 Canal to the south line of Township 42 South; thence
      (4) Easterly along said south line to the west line of Range 42 East; thence
      (5) Northerly along said west line to SR-710 (Beeline Highway); thence
      (6) Southeasterly along said SR-710 to Port Road (8th Street); thence
      (7) Easterly along said Port Road and its easterly extension to the Intracoastal Waterway; thence
      (8) Northerly along the Intracoastal Waterway to the Lake Worth inlet and east to the Atlantic Ocean; thence
      (9) Northerly along the water's edge of the Atlantic Ocean to the point of beginning.

   b. **Benefit zone 2 (Central).** Beginning at the water's edge of the Atlantic Ocean and SR-804 (Boynton Beach Blvd.) extended; thence

      (1) Westerly along SR-804 and its extension to the South Florida Water Management Levee 7 Canal; thence
      (2) Northerly along said Levee 7 Canal to the centerline of Old State Road 80; thence
      (3) Westerly along said centerline of State Road 80 to the intersection of the centerline of U.S. Highway 98; thence
      (4) Northwesterly along said centerline of U.S. Highway 98 to the west line of Range 40 East; thence
      (5) North along the west line of Range 40 East to the south line of Township 42 South; thence
      (6) Easterly along said south line to the west line of Range 42 East; thence
      (7) Northerly along said west line to SR-710 (Beeline Highway); thence
      (8) Southeasterly along said SR-710 (Beeline Highway) to Port Road (8th Street); thence

(9) Easterly along said Port Road and its easterly extension to the Intracoastal Waterway; thence
(10) Northerly along the Intracoastal Waterway to the Lake Worth Inlet and east to the Atlantic Ocean; thence
(11) Southerly along the water's edge of the Atlantic Ocean to the point of beginning.

c. **Benefit zone 3 (South).** Beginning at the waters edge of the Atlantic Ocean and SR-804 (Boynton Beach Boulevard) extended; thence

(1) Westerly along SR-804 and its extension to the South Florida Water Management District Levee 7 Canal; thence
(2) Southerly and southeasterly along said Levee 7 Canal, Levee 39 Canal and Levee 36 Canal to the south boundary line of Palm Beach County as described in Fla. Stat. Sec. 7.50, "County Boundary;" thence

(3) Easterly along said boundary line to the water's edge of the Atlantic Ocean; thence
(4) Northerly along said water's edge to the point of beginning.

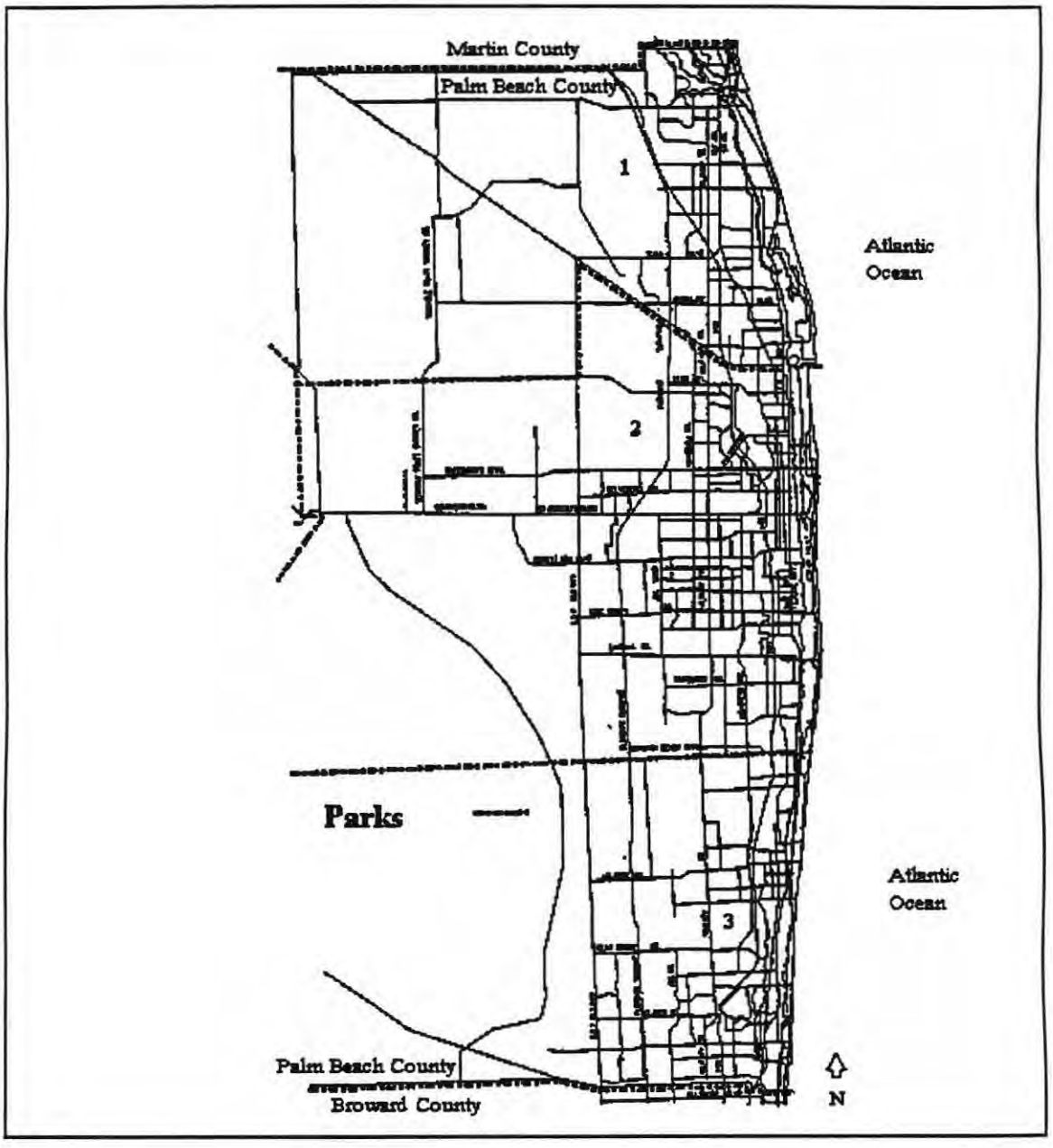
d. **Benefit zone 4 (Glades).** Zone 4 is bounded on the north by the Martin County line; on the East by the Western boundaries of Zones 1, 2, and 3; on the South by the Broward County line; and on the West by the Hendry County line.

2. **Identification of benefit zones.** The park benefit zones are shown in Figure 10.2-1. No park impact fee is exacted in benefit zone 4 because (1) development in that benefit zone is overwhelmingly isolated from eastern Palm Beach County; (2) no new capital facilities for parks are required during the planning horizon upon which the park impact fee in Zone 4 is based, except for district park capital facilities; and (3) credits to development in Zone 4 for other assessments funding park capital facilities equal or exceed the impact fee associated with district parks in Zone 4.

E. **Establishment of trust funds.** There are hereby established separate park impact fee trust funds, one for each park impact fee benefit zone.

F. **Use of park impact fees.** Impact fees paid pursuant to this section shall be encumbered and spent only in conformance with Sec. 10.1.I.

Figure 10.2-1
Park Benefit Zones



SEC. 10.3 FIRE-RESCUE IMPACT FEE.

A. Imposition of fee. Impact fees are imposed upon all land uses creating an impact on fire-rescue services in accordance with Sec. 10.1.D and this section.

B. Fee schedule. The fee schedule for fire-rescue services is established in Table 10.3-1. Land uses in the fee schedule shall be as defined in Sec. 195.073, Fla. Stat. and Rule 12D-8, F.A.C. To ensure that the impact fee does not exceed the cost to provide capital facilities to accommodate new development, the impact fees in the fee schedule are established at no more than ninety-five (95) percent of the cost to accommodate the impact.

TABLE 10.3-1
FIRE-RESCUE IMPACT FEE SCHEDULE

Land Use Type (Unit)	Calls For Service	Cost Per Unit	Credits	Fire-Rescue Impact Fee	5% Discount	Net Fire-Rescue Impact Fee
Residential Units, by Type						
Single Family Detached	0.21567	$105.72	$ 18.32	$ 87.40	$ 4.37	$ 83.03
Single Family Attached	0.21567	105.72	10.51	95.21	4.76	90.45
Multi-Family	0.08452	41.43	12.87	28.56	1.43	27.13
Mobile Home	0.08452	41.43	13.95	27.48	1.37	26.11
Hotel/Motel Per Room	0.08452	41.43	11.64	29.79	1.49	28.30
Non-Residential						
Office 100,000 & Under	0.1558	$ 76.39	$ 15.37	$ 61.02	$ 3.05	$ 57.97
100,001 - 125,000	0.1558	76.39	15.03	61.36	3.07	58.29
125,001 - 150,000	0.1558	76.39	14.70	61.69	3.09	58.60
150,001 - 175,000	0.1558	76.39	14.37	62.02	3.10	58.92
175,001 - 199,999	0.1558	76.39	14.04	62.35	3.12	59.23
200,000 & Over	0.1558	76.39	13.70	62.69	3.13	59.56
Medical Office	0.1558	76.39	22.30	54.09	2.70	51.39
Warehouse Per 1,000 Ft.²	0.0645	31.62	2.57	29.05	1.45	27.60
Gen. Industrial Per 1,000 Ft.	0.4360	213.73	3.09	210.64	10.53	200.11
Retail Per 1,000 Ft.²						
80,000 Ft.² & Under	0.2340	$114.71	$ 25.23	$ 89.48	$ 4.47	$ 85.01
80,001 - 99,999	0.2340	114.71	27.73	86.98	4.35	82.63
100,000 - 199,999	0.2340	114.71	27.87	86.84	4.34	82.50
200,000 - 499,999	0.2340	114.71	26.77	87.94	4.40	83.54
500,000 - 999,999	0.2340	114.71	25.56	89.15	4.46	84.69
1,000,000 & Over	0.2340	114.71	25.30	89.41	4.47	84.94

[Ord. No. 95-8]

C. **Benefit zones.**

1. **Establishment of benefit zone.** There is hereby established one (1) Fire-Rescue benefit zone, corresponding to the Palm Beach County Fire-Rescue Municipal Service Taxing Unit, and those municipalities contracting with Palm Beach County for the provision of fire-rescue services (municipalities include: Cloud Lake, Glen Ridge, Golfview, Haverhill, Juno Beach, Jupiter, and Lake Clarke Shores).

D. **Establishment of trust fund.** There is hereby established a separate impact fee trust fund for the impact fee benefit zone described in Sec. 10.3.C.1.

E. **Use of fire-rescue impact fees.** Impact fees paid pursuant to this section shall be encumbered and spent only in conformance with Sec. 10.1.I.

[Ord. No. 95-8; March 21, 1995]

SEC. 10.4 LIBRARY IMPACT FEE.

A. **Imposition of fee.** Impact fees are imposed upon all land uses creating an impact on library services in accordance with Sec. 10.1.D and this section.

B. **Fee schedule.** The fee schedule for library services is established in Table 10.4-1. To ensure that the impact fee does not exceed the cost to provide capital facilities to accommodate new development, the impact fees in the fee schedule are established at no more than ninety-five (95) percent of the cost to accommodate the impact.

TABLE 10.4-1
LIBRARY FEE SCHEDULE

Land Use Type (Unit)	Residential Population	Cost Per Unit	Credits	Library Impact Fee	5% Discount	Net Library Impact Fee
Residential Units by Square Footage						
800 Feet and Under	1.646	$ 88.34	$ 63.07	$ 25.27	$ 1.26	$ 24.01
801 - 1,399	2.007	107.71	67.58	40.13	2.01	38.12
1,400 - 1,999	2.526	135.57	74.06	61.51	3.08	58.43
2,000 - 3,599	3.045	163.42	80.54	82.88	4.14	78.74
3,600 and Over	3.845	206.36	90.53	115.83	5.79	110.04

[Ord. No. 95-8]

C. Benefit zone.

1. **Establishment of benefit zone.** There is hereby established one (1) library benefit zone, consisting of unincorporated Palm Beach County and those municipalities that are part of the Library Taxing District (municipalities include: Atlantis, Belle Glade, Briny Breezes, Cloud Lake, Glen Ridge, Golfview, Greenacres City, Haverhill, Hypoluxo, Juno Beach, Jupiter, Jupiter Inlet Colony, Lake Clarke Shores, Mangonia Park, Ocean Ridge, Pahokee, Palm Beach Gardens, Palm Beach Shores, Royal Palm Beach, South Bay, South Palm Beach, Tequesta, and Village of Golf). The Palm Beach County library system is a interconnected system whereby all materials are available countywide without extra charge through immediate FAX capability and same or next-day courier delivery.

D. Establishment of trust funds. There is hereby established a library impact fee trust fund for the benefit zone described in Sec. 10.4.C.1.

E. Use of library impact fees. Impact fees paid pursuant to this section shall be encumbered and spent only in conformance with Sec. 10.1.I.

[Ord. No. 95-8; March 21, 1995]

SEC. 10.5 LAW ENFORCEMENT IMPACT FEE.

A. Imposition of fee. Impact fees are imposed upon all land uses creating an impact on law enforcement services in accordance with Sec. 10.1.D. and this section.

B. Fee schedule. The fee schedules for law enforcement services are established in Tables 10.5-1 and 10.5-2. Land uses in the fee schedule shall be as defined in Sec. 195.073, Fla. Stat. and Rule 12D-8, F.A.C. To ensure that the impact fee does not exceed the cost to provide capital facilities to accommodate new development, the impact fees in the fee schedule are established at no more than ninety-five (95) percent of the cost to accommodate the impact.

TABLE 10.5-1
LAW ENFORCEMENT FEE SCHEDULE FOR COUNTYWIDE SERVICES
ZONE 1

Land Use Type (Unit)	Functional Population	Cost Per Unit	Credits	Law Enforcement Impact Fee	Discount	Net Law Enforcement Impact Fee
Residential units by square footage						
Dwelling units, 800 sq. ft. and Under	0.8200	$ 1.98	$ 2.05	$ 0.00	$ 0.00	$ 0.00
Dwelling unit, 801 - 1,399 sq. ft.	1.0000	2.41	2.49	0.00	0.00	0.00
Dwelling unit, 1,400 - 1,999 sq. ft.	1.2590	3.04	3.14	0.00	0.00	0.00
Dwelling unit, 2,000 - 3,599 sq. ft.	1.5170	3.66	3.78	0.00	0.00	0.00
Dwelling unit, 3,600 sq.ft. and Over	1.9160	4.62	4.78	0.00	0.00	0.00
Hotel/Motel Per Room	0.3500	0.84	0.87	0.00	0.00	0.00
Non-Residential per 1,000 feet						
Office 100,000 & Under	1.1690	$ 2.82	$ 2.92	$ 0.00	$ 0.00	$ 0.00
100,001 - 125,000	1.1020	2.66	2.75	0.00	0.00	0.00
125,001 - 150,000	0.9230	2.23	2.30	0.00	0.00	0.00
150,001 - 175,000	0.9040	2.18	2.25	0.00	0.00	0.00
175,001 - 199,999	0.8770	2.12	2.19	0.00	0.00	0.00
200,000 & Over	0.8590	2.07	2.14	0.00	0.00	0.00
Medical Office	1.6520	3.99	4.12	0.00	0.00	0.00
Warehouse Per 1,000 Ft.²	0.2610	0.63	0.65	0.00	0.00	0.00
Gen. Industrial Per 1,000 Ft.	0.5020	1.21	1.25	0.00	0.00	0.00
Retail Per 1,000 Ft.²						
80,000 Ft.² & Under	1.9750	$ 4.77	$ 4.93	$ 0.00	$ 0.00	$ 0.00
80,001 - 99,999	2.1070	5.08	5.26	0.00	0.00	0.00
100,000 - 199,999	2.1900	5.28	5.46	0.00	0.00	0.00
200,000 - 499,999	2.1890	5.28	5.46	0.00	0.00	0.00
500,000 - 999,999	2.2460	5.42	5.60	0.00	0.00	0.00
1,000,000 & Over	2.3000	5.55	5.74	0.00	0.00	0.00

TABLE 10.5-2
LAW ENFORCEMENT FEE SCHEDULE FOR UNINCORPORATED PALM BEACH COUNTY*
ZONE 2

Land Use Type (Unit)	Functional Population	Cost Per Unit	Credits	Law Enforcement Impact Fee	5% Discount	Net Law Enforcement Impact Fee
Residential Units						
Single Family, Detached	0.920	$ 83.31	$ 0.00	$ 83.31	$ 4.17	$ 79.14
Single Family, Attached	0.920	83.31	0.00	83.31	4.17	79.14
Multi-Family	0.120	10.87	0.00	10.87	.54	10.33
Mobile Home	0.120	10.87	0.00	10.87	.54	10.33
Hotel/Motel Per Room	0.920	83.31	0.00	83.31	4.17	79.14
Non-Residential						
Office 100,000 & Under	1.810	$ 163.90	$ 0.00	$ 163.90	$ 8.19	$ 155.71
100,001 - 125,000	1.810	163.90	0.00	163.90	8.19	155.71
125,001 - 150,000	1.810	163.90	0.00	163.90	8.19	155.71
150,001 - 175,000	1.810	163.90	0.00	163.90	8.19	155.71
175,001 - 199,999	1.810	163.90	0.00	163.90	8.19	155.71
200,000 & Over	1.810	163.90	0.00	163.90	8.19	155.71
Medical Office	1.810	163.90	0.00	163.90	8.19	155.71
Warehouse Per 1,000 Ft.²	0.300	27.17	0.00	27.17	1.36	25.81
Gen. Industrial Per 1,000 Ft.	0.300	27.17	0.00	27.17	1.36	25.81
Retail Per 1,000 Ft.²						
80,000 Ft.² & Under	1.810	$ 163.90	$ 0.00	$ 163.90	$ 8.19	$ 155.71
80,001 - 99,999	1.810	163.90	0.00	163.90	8.19	155.71
100,000 - 199,999	1.810	163.90	0.00	163.90	8.19	155.71
200,000 - 499,999	1.810	163.90	0.00	163.90	8.19	155.71
500,000 - 999,999	1.810	163.90	0.00	163.90	8.19	155.71
1,000,000 & Over						

*Includes Cloud Lake, Golfview, Haverhill, Glen Ridge, and Village of Golf.

C. **Benefit zones.**

1. **Establishment of benefit zones.** There are hereby established two (2) law enforcement impact fee benefit zones. They are identified in Figure 10.7-1.

   a. **Area and services in benefit zone 1.** Benefit zone one (1) shall consist of the entire Palm Beach County, including both the unincorporated area and all municipalities. Countywide functions for which impact fees are charged in this zone include the crime laboratory, warrants divisions, marine enforcement, K-9 unit, and organized crime bureau. No credits for municipal law enforcement activities are applied for these services.

   b. **Area and services in benefit zone 2.** Benefit zone two (2) shall include the unincorporated portions of Palm Beach County and those municipalities which do not provide road patrol services, including Cloud Lake, Golfview, Haverhill, Glen Ridge, and Village of Golf. Impact fees paid in these areas support law enforcement functions otherwise met by municipal law enforcement services, though all law enforcement functions of the Sheriff are countywide. The use of this district allows credit for municipal law enforcement services.

D. **Establishment of trust funds.** There are hereby established separate impact fee trust funds for each impact fee benefit zone described in Sec. 10.5.C.1.

E. **Use of law enforcement impact fees.** The Sheriff shall identify in the Sheriff's budget those new capital facilities for which law enforcement impact fees shall be spent. The funds shall remain restricted to their respective trust funds and the requirements of this article, and the Sheriff shall ensure that the funds are expended and accounted for in accordance with this article. The Sheriff shall maintain such records and documentation necessary to allow the effective audit of the use of the law enforcement impact fees. The County's internal auditor shall have authority to require accounting controls and documentation, and shall have the authority to audit the use of law enforcement impact fees. Palm Beach County may require special impact fee reports by the auditor performing an audit of the Sheriff's accounts. An intergovernmental agreement between Palm Beach County and the Sheriff shall be entered into to ensure compliance with, and to administer, this article.

SEC. 10.6 PUBLIC BUILDINGS IMPACT FEE.

A. **Imposition of fee.** Impact fees are imposed upon all land uses creating an impact on public buildings in accordance with Sec. 10.1.D and this section.

B. **Fee schedule.** The fee schedule for public buildings is established in Table 10.6-1. Land uses in the fee schedule shall be as defined in Sec. 195.073, Fla. Stat. and Rule 12D-8, F.A.C. To ensure that the impact fee does not exceed the cost to provide capital facilities to accommodate new development, the impact fees in the fee schedule are established at no more than ninety-five (95) percent of the cost to accommodate the impact.

TABLE 10.6-1
PUBLIC BUILDINGS FEE SCHEDULE

Land Use Type (Unit)	Functional Population	Cost Per Unit	Credits	Public Buildings Impact Fee	5% Discount	Net Public Buildings Impact Fee
Residential units by square footage						
Dwelling unit, 800 sq. ft. and Under	0.8230	$111.87	$ 71.03	$ 40.84	$ 2.04	$ 38.80
Dwelling unit, 801 - 1,399 sq. ft.	1.0035	136.41	81.93	54.48	2.72	51.76
Dwelling unit, 1,400 - 1,999 sq. ft.	1.2630	171.68	97.59	74.09	3.70	70.39
Dwelling unit, 2,000 - 2,599 sq. ft.	1.5225	206.96	113.25	93.71	4.69	89.02
Dwelling unit, 2,600 sq. ft. and Over	1.9225	261.33	137.38	123.95	6.20	117.75
Hotel/Motel Per Room	0.3500	47.58	42.49	5.09	.25	4.84
Non-Residential per 1,000 Ft.						
Office 100,000 & Under	1.1548	156.98	86.74	$ 70.24	$ 3.51	$ 66.73
100,001 - 125,000	1.1298	153.58	85.23	68.35	3.42	64.93
125,001 - 150,000	1.1048	150.18	83.72	66.46	3.32	63.14
150,001 - 175,000	1.0798	146.78	82.21	64.57	3.23	61.34
175,001 - 199,999	1.0548	143.38	80.71	62.67	3.13	59.54
200,000 & Over	1.0298	139.98	79.20	60.78	3.04	57.74
Medical Office	1.6759	227.81	118.19	109.62	5.48	104.14
Warehouse Per 1,000 Ft.²	0.1935	26.30	21.66	4.64	.23	4.41
Gen. Industrial Per 1,000 Ft.	0.2321	31.55	23.99	7.56	.38	7.18
Retail Per 1,000 Ft.²						
80,000 Ft.² & Under	1.8958	$257.70	$134.37	$123.33	$ 6.17	$ 117.16
80,001 - 99,999	2.0838	283.26	145.72	137.54	6.88	130.66
100,000 - 199,999	2.0948	284.75	146.38	138.37	6.92	131.45
200,000 - 499,999	2.0116	273.44	141.36	132.08	6.60	125.48
500,000 - 999,999	1.9212	261.15	135.91	125.24	6.26	118.98
1,000,000 & Over	1.9015	258.48	134.72	123.76	6.19	117.57

[Ord. No. 95-8]

C. **Benefit zone.**

1. **Establishment of benefit zone.** There is hereby established one (1) public building impact fee benefit zone, consisting of the entire Palm Beach County, including both the incorporated and unincorporated areas of the County.

D. **Establishment of trust funds.** There is hereby established a separate impact fee trust fund for the impact fee benefit zone described in Sec. 10.6.C.1.

E. **Use of public buildings impact fees.** Fees paid pursuant to this section shall be encumbered and spent only in conformance with Sec. 10.1.I.

[Ord. No. 95-8; March 21, 1995]

SEC. 10.7 SCHOOL IMPACT FEE.

A. **Imposition of fee.** Impact fees are imposed upon all development creating an impact on school site requirements in accordance with Sec. 10.1.D and this section.

B. **Fee schedule.** The fee schedules for school impact fees are established in Table 10.7-1. To ensure that the impact fee does not exceed the cost to provide capital facilities to accommodate new development, the impact fees in the fee schedule are established at no more than ninety-five (95) percent of the cost to accommodate the impact.

TABLE 10.7-1
SCHOOL FEE SCHEDULE

Residential Units by Square Footage	Average Total Occ.	Occupancy Ages 5-17	School Impact	School Impact Fee	Discount	Net School Impact Fee
Dwelling unit, 800 sq.ft and under	1.640	0.119	0.100	$ 198.00	$ 9.90	$ 188.10
Dwelling unit, 801 - 1,399 sq.ft.	2.000	0.174	0.147	291.00	14.55	276.45
Dwelling unit, 1,400 - 1,999 sq.ft.	2.517	0.440	0.371	735.00	36.75	698.25
Dwelling unit, 2,000 - 3,599 sq.ft.	3.034	0.705	0.594	1177.00	58.85	1118.15
Dwelling unit, 3,600 sq.ft. and over	3.832	1.134	0.955	1892.00	94.60	1797.40

[Ord. No. 95-8]

C. **Benefit zones.**

1. **Establishment of benefit zones.** There are hereby established five (5) school impact fee benefit zones set forth as follows.

a. **Benefit zone 1.** The boundaries of benefit zone 1 shall be Palm Beach County's northern boundary on the north, the Beeline Highway/Port Road/8th Street East to Lake Worth, North along the Intracoastal Waterway to the Lake Worth Inlet and East to Atlantic Ocean on the West and South; and the Atlantic Ocean on the East.

b. **Benefit zone 2.** The boundaries of benefit zone 2 shall be Beeline Highway/Port Road/8th Street East to Lake Worth, North along the Intracoastal Waterway to the Lake Worth Inlet and East to the Atlantic Ocean on the North; State Road 7 and its extension on the West; SR-804 (Boynton Beach Boulevard) and its extension on the South; and the Atlantic Ocean on the East.

c. **Benefit zone 3.** The boundaries of benefit zone 3 shall be SR-804 (Boynton Beach Boulevard) and its extension on the North; South Florida Water Management District Levee 40 on the West; Palm Beach County's southern boundary on the South; and the Atlantic Ocean on the East.

d. **Benefit zone 4.** The boundaries of benefit zone 4 shall be Palm Beach County's northern border and Beeline Highway on the North; the western border of range 40 E on the West; South Florida Water Management District Levee 40 and Northwest 2nd Avenue (Boynton Beach) and its extension on the South; and State Road 7 and its extension on the East.

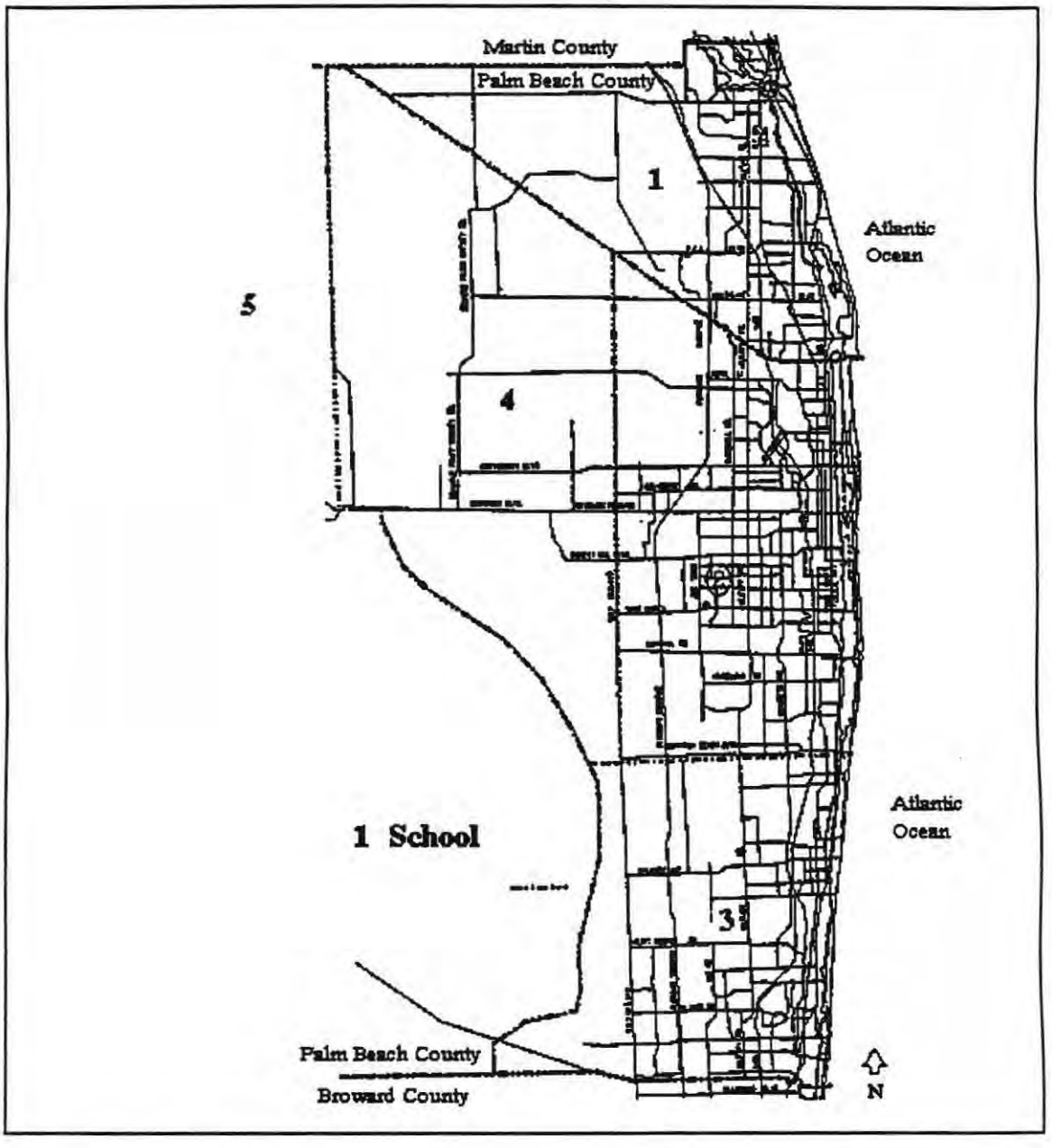
e. **Benefit zone 5.** The boundaries of benefit zone 5 shall be Palm Beach County's northern, western and southern borders on the North, West, and South, respectively; and the western border of Range 40 E and the South Florida Water Management District Levee 40 on the East.

2. **Identification of benefit zones.** The school impact fee benefit zones are identified in Figure 10.7-1. No school impact fees shall be collected at this time in Benefit zone 5 because there is no identified need for additional schools due to new development during the planning horizon on which this impact fee is based.

D. Establishment of trust funds. There are hereby established separate impact fee trust funds for each impact fee benefit zone.

E. Use of school impact fees. School impact fees shall be appropriated by the Board of County Commissioners and remitted to the School Board following the Clerk's pre-audit of such funds. The funds shall remain restricted to their respective School Board trust funds and the requirements of this article, and the School Board shall ensure that the funds are expended and accounted for in accordance with the provisions of this article. The County's internal auditor shall have the authority to require certain internal accounting controls and documentation, and shall have the authority to audit the expenditure of the funds. An intergovernmental agreement between Palm Beach County and the School Board shall be entered into to ensure compliance with, and to administer the provisions of, this article. The agreement shall provide that the School Board shall participate in defending litigation relating to this section.

Figure 10.7-1
School Site Benefit Zones



[Ord. No. 95-8; March 21, 1995]

SEC. 10.8 FAIR SHARE ROAD IMPACT FEES.

A. **Imposition of fee.** Impact fees are imposed upon all land uses creating an impact on road facilities in accordance with Sec. 10.1.D and this section.

B. **Fee schedule.** At the option of the feepayer, the amount of the impact fee may be determined by the fee schedule, established in Table 10.8-1 or by an independent calculation provided by the feepayer and approved by the Impact Fee Coordinator and the County Engineer. The impact fees in the fee schedule have been calculated using accepted trip generation, trip length, capture/diversion, and capital road facility costs standards, and applying the appropriate credits. Land uses not listed in the fee schedule shall be as defined in the most current edition of the Institute of Transportation Engineers Trip Generation Manual.

C. **Land uses not specified in fee schedule.** If the type of land use for which a building permit is applied is not specified on the impact fee schedule, the Impact Fee Coordinator shall select the most comparable type of land use from the most current edition of *Trip Generation*, a publication of The Institute of Transportation Engineers (ITE). If the Impact Fee Coordinator determines that there is no comparable type of land use in the most current edition of Trip Generation, then the Impact Fee Coordinator shall request a determination of the impact fee from the County Engineer, who shall use the best available traffic generation data, other trip characteristics data, costs per lane mile data, and credit data. The feepayer may challenge the County Engineer's determination through the completion of an independent fee calculation study pursuant to Sec. 10.1.F.

D. **Fee calculation formulae.** The following fee calculation formulae shall be used to determine the road impact fee per unit of development:

1. **Residential.**

$$\frac{\text{New external trips} \div 2^* \times \text{Cost to construct 1 lane for 3 miles}}{\text{Capacity of 1 lane}} = \text{Fair Share Road Impact Fee}$$

$$\frac{\text{One (1) trip} \div 2^* \times \$2{,}475{,}000.00}{\text{Capacity of 1 lane}} = \$165.00 \text{ per trip}$$

2. **Non-residential.**

$$\frac{\text{New external trips} \div 2^* \times \text{Cost to construct 1 lane for 1 mile}}{\text{Capacity of 1 lane}} = \text{Fair Share Road Impact Fee}$$

$$\frac{\text{One (1) trip} \div 2^* \times \$825{,}000.00}{\text{Capacity of 1 lane}} = \$55.00 \text{ per trip}$$

3. Non-residential - short trip.

External trips ÷ 2* / Capacity of 1 lane	X	Cost to construct 1 lane for ½ mile	=	Fair Share Impact Fee
One (1) trip ÷ 2* / Capacity of 1 lane	X	$412,400.00	=	$27.50 per trip

*Given 50/50 directional split

E. Use of road impact fee funds. Fees paid pursuant to this section shall be encumbered and spent only in conformance with Sec. 10.1.I. Road impact fees collected in accordance with this article shall be used solely for the purpose of construction or improving roads, streets, highways and bridges on the major road network system, including but not limited to:

a. Design and construction plan preparation;

b. Right-of-way acquisition;

c. Construction of new through lanes;

d. Construction of new turn lanes;

e. Construction of new bridges;

f. Construction of new drainage facilities in conjunction with new roadway construction;

g. Purchase and installation of traffic signalization;

h. Construction of new curbs, medians and shoulders;

i. Relocating utilities to accommodate new roadway construction

TABLE 10.8-1
FAIR SHARE ROAD
IMPACT FEE SCHEDULE

TYPE OF LAND DEVELOPMENT ACTIVITY	OFFICIAL DAILY TRIP GENERATION RATE PER DWELLING UNIT OR AREA	PASS-BY TRIP RATE (PERCENTAGE*)	FEE PER UNIT
Residential:			
Single family detached	10/du		$1,650.00
Attached housing	7/du		1,155.00
Congregate Living Facility	2.145/du		353.93
Mobile Home (in mobile home park)	5/du		825.00
Nonresidential:			
Drive-in Bank	265.21/1000 sq.ft.	46%	7,876.74
Mini-Warehouse	2.61/1000 sq.ft.	0%	143.55
Hotel	8.7 Trips/Room	0%	478.50
Movie Theater	1.76 Trips/Seat	0%	96.80
Racquet Club	42.9 Trips/Court	0%	2,359.50
Church/Synagogue	9.32 Trips/1000	0%	512.60
Day Care Center	79.26/1000 sq.ft.	10%	3,923.37
Quality Restaurant	96.51/1000 sq.ft.	15%	4,511.84
High Turnover Sit-Down Restaurant	205.36/1000 sq.ft.	15%	9,600.58
New Car Sales	47.97/1000 sq.ft.	0%	2,638.35
General Office (Examples)**			
10,000 sq.ft.	24.6 Trips/1000 sq.ft.	0%	1,353.00
50,000 sq.ft.	16.58 Trips/1000 sq.ft.	0%	911.90
100,000 sq.ft.	14.03 Trips/1000 sq.ft.	0%	771.65
150,000 sq.ft.	12.71 Trips/1000 sq.ft.	0%	699.05
200,000 sq.ft.	11.85 Trips/1000 sq.ft.	0%	651.75
300,000 sq.ft.	10.77 Trips/1000 sq.ft.	0%	592.35
400,000 sq.ft.	9.96 Trips/1000 sq.ft.	0%	547.80
500,000 sq.ft.	9.45 Trips/1000 sq.ft.	0%	519.75
600,000 sq.ft.	9.05 Trips/1000 sq.ft.	0%	497.75
700,000 sq.ft.	8.75 Trips/1000 sq.ft.	0%	481.25
800,000 sq.ft.	8.46 Trips/1000 sq.ft.	0%	465.30
Office building, medical	34.17/1000 sq.ft.	0%	1,879.35
Hospital, per bed	11.77	0%	647.35
Nursing Home, per bed	2.6	0%	143.00
Warehouse (per 1,000 sq.ft.)	4.88/1000 sq.ft.	0%	268.40
Motel, per room	10.19	0%	560.45
General recreation, per parking space	3	0%	165.00

TABLE 10.8-1
FAIR SHARE ROAD
IMPACT FEE SCHEDULE CONT'D

TYPE OF LAND DEVELOPMENT ACTIVITY	OFFICIAL DAILY TRIP GENERATION RATE PER DWELLING UNIT OR AREA	PASS-BY TRIP RATE (PERCENTAGE*)	FEE PER UNIT
General industrial (light) (per 1,000 sq.ft.)	6.97/1000 sq.ft.	0%	383.35
General Commercial Retail (examples)**			
10,000 sq.ft.	167.59 Trips/1000 sq.ft.	45%	5,069.60
50,000 sq.ft.	91.65 Trips/1000 sq.ft.	44%	2,822.82
100,000 sq.ft.	70.67 Trips/1000 sq.ft.	43%	2,215.50
200,000 sq.ft.	54.50 Trips/1000 sq.ft.	41%	1,768.53
300,000 sq.ft.	48.31 Trips/1000 sq.ft.	38%	1,648.37
400,000 sq.ft.	42.20 Trips/1000 sq.ft.	36%	1,479.10
500,000 sq.ft.	38.65 Trips/1000 sq.ft.	34%	1,403.00
600,000 sq.ft.	36.35 Trips/1000 sq.ft.	32%	1,359.49
800,000 sq.ft.	33.88 Trips/1000 sq.ft.	27%	1,360.28
1,000,000 sq.ft.	32.09 Trips/1000 sq.ft.	23%	1,359.01
1,200,000 sq.ft.	30.69 Trips/1000 sq.ft.	18%	1,384.12
1,400,000 sq.ft.	29.56 Trips/1000 sq.ft.	14%	1,398.19
600,000 sq.ft.	28.61 Trips/1000 sq.ft.	9%	1,431.93
Non-Residential (Short Trip Length)			
Fast Food Restaurant	632.12 Trips/1000 sq.ft.	30%	12,168.31
Gas Station	748.00 Trips/Station	58%	8,639.40
Convenience Store	737.99 Trips/1000 sq.ft.	45%	11,162.10

Figures used in the Fee Schedule:

Per trip costs. Based on the formulae presented in Sec. 10.8.D, average capital road facility costs of $412,500.00 to construct one (1) lane of roadway for one half (1/2) mile, $825,000.00 to construct one (1) lane of roadway for one (1) mile, $2,475,000.00 to construct one (1) lane of road for three (3) miles, a lane capacity of 7500 trips, the following per trip costs are computed for residential, non-residential, and non-residential/short trip land uses:

Residential: $ 165.00 per trip
Non-residential: $ 55.00 per trip
Non-residential, short trip: $ 27.50 per trip.

***Pass-by-Percentage.** The percentage of trips which are passerby trips is set forth as a percentage of total trips and is a reduction to the official daily trip generation rate. If a different capture rate is established through an independent calculation pursuant to Sec. 10.1.F.5.(b), the different capture rate shall be utilized in the determination of the impact fee, if approved by the County Engineer.

**Interpolation between impact fee amounts presented in the examples is acceptable in lieu of calculation for that development whose square footage is in the range between example square footages. The formulae are as follows:

a. Office.

Total Daily Trips = Ln (T) = 0.756 Ln (X) + 3.765
T = Total Daily Trips, X = Area in 1,000 sq. ft., Ln = Natural Logarithm

b. General Commercial.

Total Daily Trips (under 570,000 sq. ft.): Ln (T) = 0.625 Ln (X) + 5.985
Total Daily Trips (570,000 sq. ft. and over) Ln (T) = .0756 Ln(X) + 5.154
T = Total Daily Trips, X = Area in 1,000 gross sq. ft. of leasable area, Ln = Natural Logarithm

c. Pass-by Percent Formula (for general commercial).

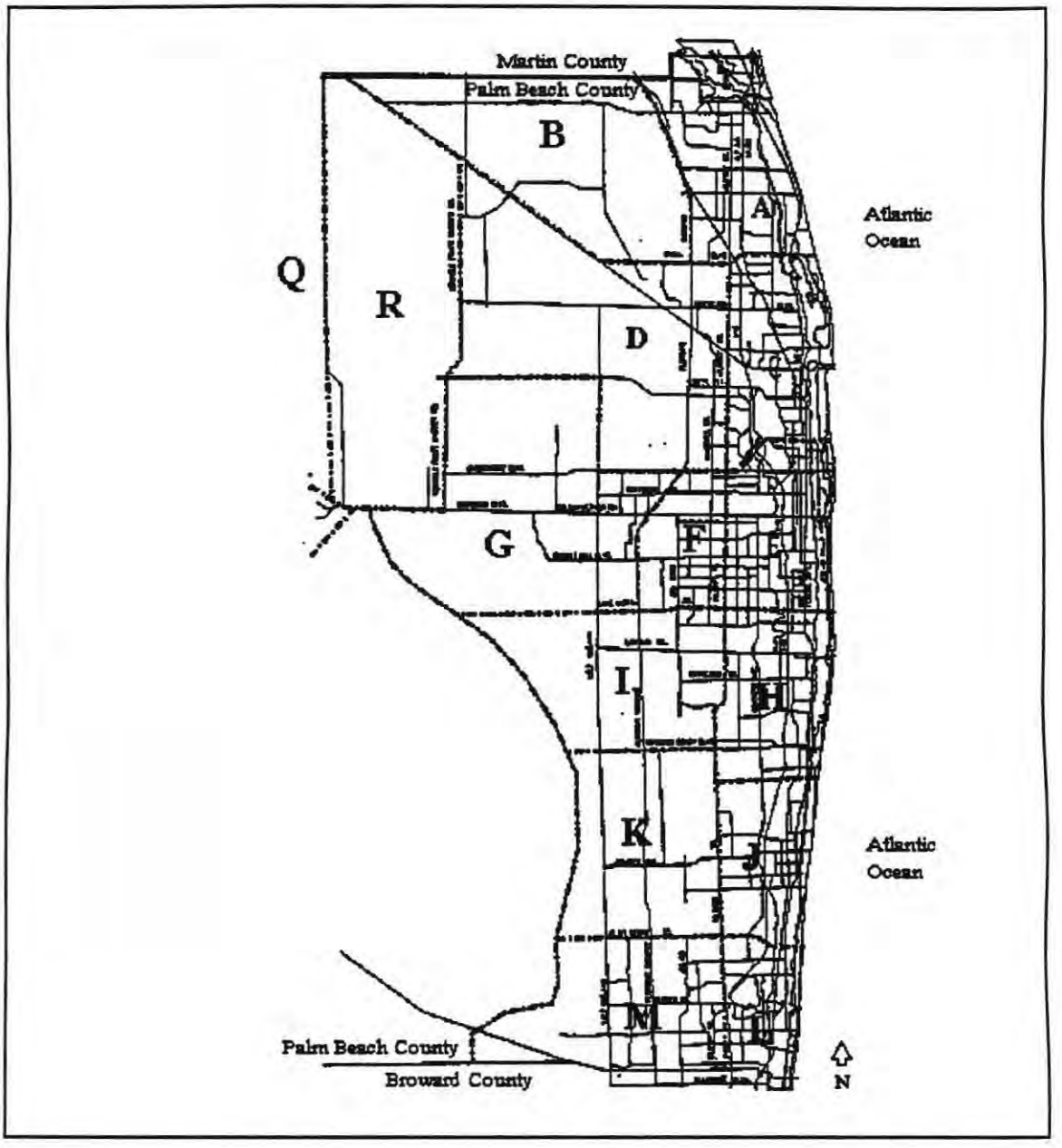
Pass by % = 45.1 - .0225 (A)
X = Area in 1,000 sq. ft. of leasable area

F. Benefit zones. Road impact fee benefit zones are hereby established as shown in Figure 10.8-1 and incorporated herein by reference. It has been determined that land development in road impact fee benefit zones O, P, and Q are so isolated from the portions of the major road network system that demand additional capital road facilities that no impact fee shall be imposed within those road impact fee benefit zones.

G. Establishment of trust funds. There are hereby established separate road impact fee trust funds, one for each road impact fee benefit zone as shown in Figure 10.8-1.

[Ord. No. 93-4; February 2, 1993] [Ord. No. 95-8; March 21, 1995]

Figure 10.8-1
Road Impact Fee Benefit Zones



ARTICLE 11.

ADEQUATE PUBLIC FACILITY STANDARDS

TABLE OF CONTENTS

ARTICLE 11.
ADEQUATE PUBLIC FACILITY STANDARDS

		Page
SEC. 11.1	GENERAL	1
A.	Purpose and intent	1
B.	Authority	1
C.	Exemptions	1
D.	Unified Planning Area	1
SEC. 11.2	LEVEL OF SERVICE (LOS) STANDARDS	2
A.	LOS for Urban Park and Recreation Facilities	2
B.	LOS for Rural Park and Recreation Facilities	2
C.	LOS for Urban Potable Water Facilities	3
1.	Palm Beach County Water Utilities Service Area	3
2.	Seacoast Service Area	3
3.	Acme Service Area	3
4.	Jupiter Service Area	3
5.	City of Riviera Beach Service Area	3
6.	Village of Palm Springs Service Area	3
7.	City of Boynton Beach Service Area	3
8.	City of Delray Beach Service Area	3
9.	City of Boca Raton Service Area	3
10.	Village of Royal Palm Beach Service Area	3
11.	City of Belle Glade Service Area	3
12.	City of Pahokee Service Area	3
13.	City of South Bay Service Area	4
D.	LOS for Rural Potable Water Facilities	4
E.	LOS for Road Facilities	4
F.	LOS for Mass Transit Facilities	4
G.	LOS for Urban Sanitary Sewer Facilities	4
H.	LOS for Rural Sanitary Sewer Facilities	6
I.	LOS for Solid Waste Facilities	6
J.	LOS for Fire-Rescue Facilities	6
K.	LOS for Drainage Facilities	6
SEC. 11.3	MONITORING PROGRAM	6
A.	General	6
B.	Annual Public Facilities Update Report (AUR)	6
C.	Recommendations on amendments to CIE and annual budget	7
SEC. 11.4	REVIEW FOR ADEQUATE PUBLIC FACILITIES	7
A.	General	7

1. Preliminary development order 7
2. Final development order 7
B. Procedure for review of Adequate Public Facilities Determination 7
1. Submission of application 7
2. Determination of sufficiency 7
3. Determination of review 8
4. Review and recommendation of County Departments and Service Providers 8
5. Decision of Zoning Director 8
6. Standards for review of application for Adequate Public Facilities Determination 8
7. Rules of General Applicability 10
C. Procedure for review of Certificate of Concurrency Reservation 11
1. Submission of application 11
2. Determination of sufficiency 11
3. Determination of review 11
4. Review and recommendation of County Departments and Service Providers 11
5. Decision of Zoning Director 12
6. Standards for review of application for Certificate of Concurrency Reservation 14
7. Rules of General Applicability 16
8. Appeal 17
9. Amendment of Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions 18
10. Effect of Agreement in Conjunction with a Conditional Certificate of Concurrency Reservation 18

SEC. 11.5 ENTITLEMENT DENSITY 19
A. General 19
B. Submission of application 19
C. Determination of sufficiency 19
D. Decision by Zoning Director 19
E. Standards for entitlement density 19
F. Appeal 20
1. General 20
2. Procedure 20
3. Standards 20

SEC. 11.6 CONCURRENCY EXEMPTION EXTENSION 20
A. Short Title 20
B. Authority 20
C. Who May Submit Concurrency Exemption Extension Application 22
1. Owner 22
2. Agent's Authorization 22
3. Director of the Palm Beach County Zoning Division 22
D. Procedure 22

1. Submit to Zoning 22
2. Contents of Application 22
3. Review 22
4. Written Determination 23

E. Applicability 23
1. Limitations 23
2. Exemptions 23

F. Criteria to Determine Whether Development is Continuing in Good Faith 23
1. Definitions 23
2. Considerations 24
3. Section 5.8 Compliance with Time Limitations 25

G. Approved Residential Projects Holding Concurrency Exemption Certificates 25

H. Approved Non-Residential Projects Holding Concurrency Exemption Certificates . . 25

I. Administrative Appeal 25
1. General 25
2. Development Review Appeals Board Membership 25
3. Procedure 26
4. Standard 26
5. Written Order 26
6. Appeal to Circuit Court 26

J. Vested rights 26
1. After expiration 26
2. Appeal to circuit court 26

ARTICLE 11.

ADEQUATE PUBLIC FACILITY STANDARDS

SEC. 11.1 GENERAL.

A. **Purpose and intent**. The purpose and intent of this article is to ensure that adequate potable water, sanitary sewer, solid waste, stormwater management, park, road and mass transit public facilities and fire-rescue are available to accommodate development concurrent with the impact of development on such public facilities, consistent with the LOS standards for those public facilities adopted in the Comprehensive Plan. This objective is accomplished by (1) establishing a management and monitoring system to evaluate and coordinate the timing and provision of the necessary public facilities to service development, and (2) by establishing a regulatory program that ensures that each public facility is available to serve development concurrent with the impacts of development on public facilities.

B. **Authority**. The Board of County Commissioners has the authority to adopt this article pursuant to Art. VIII, Sec. 1, Fla. Const., the Palm Beach County Charter, Sec. 125.01, et. seq., Fla. Stat., Sec. 163.3161(8), Fla. Stat., and Secs. 163.3177(10)(h) and 163.3202(2)(g), Fla. Stat..

C. **Exemptions**. The following shall be exempt from the requirements of this article.

1. All development that has received a Concurrency Exemption Certificate or Concurrency Exemption Extension Certificate, pursuant to the "Concurrency Exemption Ordinance of Palm Beach County" and the "Concurrency Exemption Extension Ordinance;"

2. An alteration or expansion of a development that does not create additional impact on public facilities;

3. The construction of accessory buildings and structures that does not create additional impact on public facilities;

4. The replacement of an existing dwelling unit within one (1) year of its removal; and

5. The official list of additional specific permit types as established by the Zoning Director which are deemed to have no impact on public facilities.

[Ord. No. 95-8]

D. **Unified Planning Area**.

1. If a Unified Planning Area is adopted and implemented by the Board of County Commissioners, through resolution, such Unified Planning Area shall be considered concurrent through the date specified in the resolution, provided:

   a. The terms of the resolution adopting and implementing the Unified Planning Area are being met in good faith; and
   b. The impacts of the Unified Planning Area on the public facilities have been addressed.

2. Adequate public facility standards for the Unified Planning Area shall be maintained providing Secs. 11.1.D.1.a and 11.1.D.1.b have been met, regardless of the impact of subsequently approved or background traffic which may generate traffic in the Unified Planning Area, on affected roadways or other public facilities.
[Ord. No. 95-8]

SEC. 11.2 LEVEL OF SERVICE (LOS) STANDARDS. The following LOS standards have been adopted in the Comprehensive Plan and shall apply in the review of development pursuant to the procedures and standards of this article.

A. **LOS for Urban Park and Recreation Facilities** means the following for park lands and facilities. For park lands: 4.37 acres of acquired park land and 1.37 acres of developed park land for each 1,000 persons for regional park land; 1.25 acres of acquired park land and .67 acres of developed park land for each 1,000 persons for district park land; .37 acres of acquired park land and .23 acres of developed park land for each 1,000 persons for community park land; and .35 acres of acquired park land and .23 acres of developed park land for each 1,000 persons for beach park land.

The boundaries for the Urban Park and Recreation Facilities are the boundaries for the Urban Service Area, as identified in the Future Land Use Atlas of the Comprehensive Plan.

Pursuant to the Comprehensive Plan, these represent interim standards for LOS for Urban Park and Recreation Facilities, which may be modified by the County.

In determining the LOS for Urban Park and Recreation Facilities, park lands and facilities in both the Urban Service Area and Rural Service Area shall be considered.

The following applications for development permits are exempt from the LOS for Urban Park and Recreation Facilities: (1) alterations or expansions of an existing dwelling unit where no additional dwelling units are created; (2) construction of accessory buildings or structures that will not create additional dwelling units; (3) the replacement of an existing dwelling unit, where no additional dwelling units are created; (4) the issuance of a tie-down permit on a mobile home on which applicable park impact assessment fees have previously been paid; and (5) all non-residential development.

B. **LOS for Rural Park and Recreation Facilities** means the following for park lands and facilities. For park lands: 4.37 acres of acquired park land and 1.37 acres of developed park land for each 1,000 persons for regional park land; 1.25 acres of acquired park land and .67 acres of developed park land for each 1,000 persons for district park land; and .35 acres of acquired park land and .23 acres of developed park land for each 1,000 persons for beach park land.

The boundaries for the Rural Park and Recreation Facilities are the boundaries for the Rural Service Area, as identified in the Future Land Use Atlas of the Comprehensive Plan. Pursuant to the Comprehensive Plan, those represent interim standards for LOS for Rural Park and Recreation Facilities, which may be modified by the County. In determining the LOS for Rural Park and Recreation Facilities, park lands and facilities in both the Rural Service Area and Urban Service Area shall be considered.

The following applications for development permits are exempt from the LOS for Rural Park and Recreation Facilities: (1) alterations or expansions of an existing dwelling unit where no additional dwelling units are created; (2) construction of accessory buildings or structures that will not create additional dwelling units; (3) replacement of an existing dwelling unit, where no additional dwelling units are created; (4) issuance of a tie-down permit on a mobile home on which applicable park impact assessment fees have previously been paid; and (5) all non-residential development.

C. LOS for Urban Potable Water Facilities means the following, based upon the potable water service area where the development is located.

1. **Palm Beach County Water Utilities Service Area.** The LOS in the Palm Beach County Water Utilities Service Area is 195 gallons per capita per day (g.p.c.d.) for general residential consumption.

2. **Seacoast Service Area.** The LOS in the Seacoast Service Area is 110 g.p.c.d. for general residential consumption.

3. **Acme Service Area.** The LOS in the Acme Service Area is 207 g.p.c.d. for general residential consumption.

4. **Jupiter Service Area.** The LOS in the Jupiter Service Area is 350 gallons per dwelling unit per day for general residential consumption.

5. **City of Riviera Beach Service Area.** The LOS in the City of Riviera Beach Service Area is 177 g.p.c.d. for general residential consumption.

6. **Village of Palm Springs Service Area.** The LOS in the Village of Palm Springs Service Area is 194 g.p.c.d. peak and 121 g.p.c.d. average, for general residential consumption.

7. **City of Boynton Beach Service Area.** The LOS in the City of Boynton Beach Service Area is 200 g.p.c.d. for general residential consumption.

8. **City of Delray Beach Service Area.** The LOS in the City of Delray Beach Service Area is 263 g.p.c.d. peak and 195 g.p.c.d. average, for general residential consumption.

9. **City of Boca Raton Service Area.** The LOS in the City of Boca Raton Service Area is 387 g.p.c.d. for general residential consumption.

10. **Village of Royal Palm Beach Service Area.** The LOS in the Village of Royal Palm Service Area is 135 g.p.c.d. for general residential consumption.

11. **City of Belle Glade Service Area.** The LOS in the City of Belle Glade Service Area is 91 g.p.c.d. for general residential consumption.

12. **City of Pahokee Service Area.** The LOS in the City of Pahokee Service Area is 93 g.p.c.d. for general residential consumption.

13. **City of South Bay Service Area.** The LOS in the City of South Bay Service Area is 174 g.p.c.d. for general residential consumption.

The only exception to the LOS for Urban Potable Water Facilities in the Urban Service Area are those lots which do not have a central water supply available within a distance that a connection is required under Sec. 16.2, (Environmental Control Rule II) Water Supply Systems. The exception is valid only if an on site water supply system can be installed in accordance with all the technical and setback requirements of Sec. 16.2, Water Supply Systems (Environmental Control Rule II).

D. LOS for Rural Potable Water Facilities means an on site potable water well permitted and operated in conformance with State and Palm Beach County regulations. There shall be no minimum LOS for fire flow for Rural Potable Water Facilities. The Rural Service Area for Rural Potable Water Facilities is identified in the Future Land Use Atlas of the Comprehensive Plan.

E. LOS for Road Facilities means the LOS for Road Facilities as set forth in Sec. 15.1, Traffic performance standards.

F. LOS for Mass Transit Facilities means that development orders shall not cause Palm Beach County's total mass transit capacity to fall below that which can accommodate three quarters of one percent (75%) of the total County transportation trips.

G. LOS for Urban Sanitary Sewer Facilities means the following, based upon the Sanitary Sewer Service Area where the development is located.

LOS for Urban Sanitary Sewer Areas

	Minimum Wastewater Capacity (per capita, per day)	Disposal of Effluent	Disposal of Sludge
1. Palm Beach County Water Utilities Service Area	central region 92 gallons southern region 120 gallons	*1	*2
2. City of Boca Raton Service Area	147 gallons	*1	*2
3. City of Delray Beach Service Area	117 gallons	*1	*2
4. City of Boynton Beach Service Area	90 gallons	*1	*2
5. City of Riviera Beach Service Area	135 gallons	*1	*2
6. Village of Royal Palm Beach Service Area	85 gallons	*1	*2
7. Village of Palm Springs/ Lake Worth Service Area	75 gallons	*1	*2
8. City of Belle Glade Service Area	101 gallons	*1	*2
9. City of Pahokee Service Area	100 gallons	*1	*2
10. City of South Bay Service Area	163 gallons	*1	*2
11. Encon Service Area	85 gallons	*1	*3
12. Seacoast Service Area	91 gallons	*1	*3
13. Acme Service Area	70 gallons	*1	*3

*1) As required by EPA and DER regulations
*2) As required by DER and Solid Waste Authority
*3) As required by DER regulations

The minimum LOS for Urban Sanitary Sewer Facilities for single lots of record in the Urban Service Area which represent infill development and are grandfathered pursuant to On-Site Sewage Disposal Systems (ECR I), Sec. 16.1, is a septic tank permitted in accordance with State and local regulations as administered by the PBCPHU.

H. LOS for Rural Sanitary Sewer Facilities means a septic tank permitted and operated in conformance with State and County regulations as administered by the PBCPHU. The Rural Service Area is identified in the Future Land Use Atlas of the Comprehensive Plan.

I. LOS for Solid Waste Facilities means sufficient capital solid waste disposal facilities to dispose of 7.1 pounds of solid waste per capita per day.

J. LOS for Fire-Rescue Facilities means that all properties in the Coastal Municipal Services Taxing Unit(s) shall be provided fire services that have an aggregate response time of five (5) minutes.

K. LOS for Drainage Facilities means that a legal right to drain exists to convey stormwater discharged from each development site to a point of legal positive outfall.

[Ord. No. 95-8; March 21, 1995]

SEC. 11.3 MONITORING PROGRAM.

A. General. In order to ensure that adequate potable water, sanitary sewer, solid waste, drainage, park and recreation, road, mass transit, and fire-rescue public facilities are available concurrent with the impacts of development on public facilities, the County shall establish the following management and monitoring practices. Their purpose is to evaluate and coordinate the timing, provision, and funding of potable water, sanitary sewer, solid waste, drainage, park and recreation, road, mass transit, and fire-rescue public facilities so that (1) they are being adequately planned for and funded to maintain the LOS for public facilities and (2) to evaluate the capacity of the public facilities for use in the regulatory program to ensure (a) there are no development orders issued unless there are adequate public facilities available to serve the development concurrent with the impacts of development on the public facilities, or (b) no development orders are issued unless they are conditioned on the availability of public facilities to serve the development concurrent with the impacts of development on public facilities.

B. Annual Public Facilities Update Report (AUR). By March 1 of each year, the Executive Director of PZB shall complete and submit to the Office of Management and Budget (OFMB) an Annual Public Facilities Update Report (hereinafter "AUR"). The AUR shall (a) determine the existing conditions of all potable water, sanitary sewer, solid waste, drainage, park, road, mass transit, and fire-rescue public facilities, (b) determine and summarize the available capacity of these public facilities based on their LOS, and (c) forecast the capacity of existing and planned capital improvements identified in the five (5) year capital improvement schedule for each of the five (5) succeeding years. The forecasts shall be based on the most recently updated schedule of capital improvements for each public facility. The AUR shall also revise relevant population projections. Specifically, the AUR shall include:

1. A summary of development exempted pursuant to Sec. 11.1.C.
2. A summary of development activity.
3. An evaluation of public facilities (potable water, sanitary sewer, solid waste, drainage, park and recreation, road, mass transit, and fire-rescue facilities) indicating:
   a. the capacity available for each at the beginning of the reporting period and the end of the reporting period;
   b. an evaluation of the LOS for each public facility; and
   c. a forecast of the capacity for each public facility based upon the most recent updated schedule of capital improvements in the CIE.

C. **Recommendations on amendments to CIE and annual budget.** Based upon analysis of the AUR, OFMB shall propose to the Board of County Commissioners each year, any necessary amendments to the CIE, and any proposed amendments to the County's annual budget for public facilities.
[Ord. No. 95-8; March 21, 1995]

SEC. 11.4 REVIEW FOR ADEQUATE PUBLIC FACILITIES.

A. **General.** In order to ensure that adequate potable water, sanitary sewer, solid waste, drainage, park and recreation, road, mass transit, and fire-rescue public facilities are available concurrent with the impacts of development on each public facility, Palm Beach County shall establish the following development review procedures to ensure there is no development order issued unless there are adequate public facilities available to serve the proposed development, or that the development order is conditioned on the availability of public facilities to serve the development concurrent with the impacts of development on the public facilities.

1. **Preliminary development order.** No application for a development permit, except for a variance shall be approved until receipt of either a Concurrency Exemption Determination, a Certificate of Concurrency Reservation, a Certificate of Concurrency Reservation with conditions, or a Conditional Certificate of Concurrency Reservation or an Adequate Public Facilities Determination.

2. **Final development order.** No application for a development permit, except one for a variance shall be approved without receipt of either a Concurrency Exemption, a Certificate of Concurrency Reservation, or a Certificate of Concurrency Reservation with conditions.
[Ord. No. 95-8]

B. **Procedure for review of Adequate Public Facilities Determination.**

1. **Submission of application.** An application for an Adequate Public Facilities Determination shall be submitted at any time during the year, to the Zoning Director in a form established by the Zoning Director and made available to the public. The application shall be accompanied by a fee established by the Board of County Commissioners from time to time for the filing and processing of each application. The fee shall be non-refundable.

2. **Determination of sufficiency.** The Zoning Director shall initiate review of an application for an Adequate Public Facilities Determination upon receipt of the application, and within fifteen (15) working days determine whether the application is sufficient and includes data necessary to evaluate the application.

   a. If it is determined that the application is not sufficient, written notice shall be sent to the applicant specifying the deficiencies. The Zoning Director shall take no further action on the application unless the deficiencies are remedied. If the deficiencies are not remedied within twenty (20) working days of written notification, the application shall be considered withdrawn.
   b. If the application is determined sufficient, the Zoning Director shall notify the applicant in writing of the application's sufficiency, and that the application is ready for review pursuant to the procedures and standards of this section.

3. **Determination of review**. The Zoning Director shall also determine whether all Service Providers are required to review the application. If the Zoning Director determines that two (2) or less public facilities are impacted by the proposed development, the application may be eligible for a reduced project concurrency review fee. The Zoning Director, where appropriate, shall consult with the Service Providers in making such determination.

4. **Review and recommendation of County Departments and Service Providers.** Within three (3) working days after the Zoning Director determines the application is sufficient, the application shall be forwarded to the County Departments and Service Providers for review. Within fifteen (15) working days of its receipt, the County Departments and Service Providers shall file a statement with the Zoning Director as to whether or not adequate public facilities are available, pursuant to the standards of Sec. 11.4.B.6.

5. **Decision of Zoning Director.** Within ten (10) working days of receipt of a statement from all of the County Departments and Service Providers regarding an application for an Adequate Public Facilities Determination, the Zoning Director shall review the statements and the application, and determine if it complies with all the public facility component standards of Sec. 11.4.B.6. If the application complies with all of the public facility component standards in Sec. 11.4.B.6, the Zoning Director shall issue an Adequate Public Facilities Determination.

6. **Standards for review of application for Adequate Public Facilities Determination.** The following standards shall be used in deciding whether to issue or deny an Adequate Public Facilities Determination. Before issuance of an Adequate Public Facilities Determination, the application shall fulfill the standards for each public facility component (potable water, sanitary sewer, solid waste, drainage, parks and recreation, roads, mass transit, and fire-rescue facilities).

   a. **Potable water facilities.** The potable water component shall be approved if any of the following conditions are met:

      (1) Potable water facilities are in place to provide the proposed development sufficient services based on the LOS for potable water facilities;
      (2) The potable water facilities that will provide the proposed development sufficient services based on the LOS for potable water facilities are under construction and bonded;
      (3) The potable water facilities that will provide the proposed development sufficient services based on the LOS for potable water facilities are the subject of a binding and executed contract; or
      (4) The potable water facilities that will provide the proposed development sufficient services based on the LOS for potable water facilities are included in the County's Capital Improvement Annual Budget or the Service Provider's annual budget.

   b. **Sanitary sewer facilities.** The sanitary sewer component shall be approved if any of the following conditions are met:

      (1) Sanitary sewer facilities are in place to provide the proposed development sufficient services based on the LOS for sanitary sewer facilities;
      (2) The sanitary sewer facilities that will provide the proposed development sufficient services based on the LOS for sanitary sewer facilities are under construction and bonded;

(3) The sanitary sewer facilities that will provide the proposed development sufficient services based on the LOS for sanitary sewer facilities are the subject of a binding and executed contract; or

(4) The sanitary sewer facilities that will provide the proposed development sufficient services based on the LOS for sanitary sewer facilities are included in the County's Capital Improvement Annual Budget or the Service Provider's annual budget.

c. **Solid waste facilities.** The solid waste component shall be approved if any of the following conditions are met:

(1) Solid waste facilities are in place to provide the proposed development sufficient services based on the LOS for solid waste facilities;

(2) The solid waste facilities that will provide the proposed development sufficient services based on the LOS for solid waste facilities are under construction and bonded;

(3) The solid waste facilities that will provide the proposed development sufficient services based on the LOS for solid waste facilities are the subject of a binding and executed contract; or

(4) The solid waste facilities that will provide the proposed development sufficient services based on the LOS for solid waste facilities are included in the County's Capital Improvement Annual Budget or the Service Provider's annual budget.

d. **Drainage facilities.** The drainage component shall be approved if the proposed development has a legal right to convey drainage to a point of legal positive outfall.

e. **Park and recreation facilities.** The park and recreation component shall be approved if any of the following conditions are met:

(1) Park and recreation facilities are in place to provide the proposed development sufficient services based on the LOS for park and recreation facilities;

(2) The park and recreation facilities that will provide the proposed development sufficient services based on the LOS for park and recreation facilities are under construction and bonded;

(3) The park and recreation facilities that will provide the proposed development sufficient services based on the LOS for park and recreation facilities are the subject of a binding and executed contract; or

(4) The park and recreation facilities that will provide the proposed development sufficient services based on the LOS for park and recreation facilities are included in the County's Capital Improvement Annual Budget or the Service Provider's annual budget.

f. **Road facilities**. The road component shall be approved if the proposed development complies with Sec. 15.1, Traffic Performance Standards.

g. **Mass transit facilities.** The mass transit component shall be approved if the travel demand of the proposed development does not deteriorate the LOS for mass transit facilities below the adopted LOS for mass transit facilities.

h. **Fire-rescue facilities.** The fire-rescue component shall be approved if any of the following conditions are met:

(1) Fire-rescue facilities are in place to provide the proposed development sufficient services based on the LOS for fire-rescue facilities;
(2) The fire-rescue facilities that will provide the proposed development sufficient services based on the LOS for fire-rescue facilities are under construction;
(3) The fire-rescue facilities that will provide the proposed development sufficient services based on the LOS for fire-rescue facilities are the subject of a binding and executed contract; or
(4) The fire-rescue facilities that will provide the proposed development sufficient services based on the LOS for fire-rescue facilities are included in the County's Capital Improvement Annual Budget or the Service Provider's annual budget.

7. Rules of General Applicability.

a. Expiration. An Adequate Public Facilities Determination shall expire after six (6) months from date of issuance.

b. Effect. An Adequate Public Facilities Determination shall serve as a statement that based upon the present public facility capacity, adequate public facilities are available to serve the development at the time of the approval of the Adequate Public Facilities Determination. An adequate Public Facilities Determination shall not be considered a Certificate of Concurrency Reservation. A subsequent application for a development permit for development that has been approved based upon an Adequate Public Facilities Determination shall be required to receive a new Adequate Public Facilities Determination, a Conditional Certificate of Concurrency Reservation, or Certificate of Concurrency Reservation, whichever is appropriate. An Adequate Public Facilities Determination may be obtained for all development orders except for a plat or building permit. A plat or building permit shall not be issued until receipt of a Certificate of Concurrency Reservation, or Certificate of Concurrency reservation with conditions.

c. Assignability and transferability. An Adequate Public Facilities Determination is not assignable or transferable.

d. Conversion of an Adequate Public Facilities Determination to a Certificate of Concurrency. Within the six (6) month validity of the Adequate Public Facilities Determination, the applicant may request that the determination be converted to a Certificate of Concurrency Reservation. The request shall require submittal of an amendment to the application and payment of the applicable fee. Once all service providers have approved the amendment, a Certificate of Concurrency Reservation will be issued.

If an Adequate Public Facilities Determination expires the applicant may:
(1) Renew the determination by submitting an updated application, payment of applicable fees, or
(2) Apply for a Certificate of Concurrency Reservation by submitting an application for a concurrency reservation.

In either case, review and approval by all the concurrency service providers shall be required. **[Ord. No. 95-8]**

C. Procedure for review of Certificate of Concurrency Reservation.

1. **Submission of application.** An application for a Certificate of Concurrency Reservation shall be submitted at any time during the year to the Zoning Director, in a form established by the Zoning Director and made available to the public. The application shall be accompanied by a fee established by the Board of County Commissioners from time to time for the filing and processing of each application. The fee shall be non-refundable.

2. **Determination of sufficiency.** The Zoning Director shall initiate review of an application for a Certificate of Concurrency Reservation upon receipt of the application, and within fifteen (15) working days determine whether the application is sufficient and includes data necessary to evaluate the application.

   a. If it is determined that the application is not sufficient, written notice shall be sent to the applicant specifying the deficiencies. The Zoning Director shall take no further action on the application unless the deficiencies are remedied. If the deficiencies are not remedied within twenty (20) working days of written notification, the application shall be considered withdrawn.

   b. If the application is determined sufficient, the Zoning Director shall notify the applicant in writing of the application's sufficiency, and that the application is ready for review pursuant to the procedures and standards of this section.

3. **Determination of review.** The Zoning Director shall also determine whether all Service Providers are required to review the application. If the Zoning Director determines that two (2) or less public facilities are impacted by the proposed development, the application may be eligible for a small project concurrency review fee. The Zoning Director, where appropriate, shall consult with the Service Providers in making such determination.

4. **Review and recommendation of County Departments and Service Providers.** Within three (3) working days after the Zoning Director determines the application is sufficient, the application shall be forwarded to the County Departments and Service Providers for review. Within fifteen (15) working days of its receipt, the County Departments and Service Providers shall file a statement with the Zoning Director as to whether or not adequate public facilities are reserved, pursuant to the standards of Sec. 11.4.B.6.

5. **Decision of Zoning Director.** Within ten (10) working days after receipt of a statement from the County Departments and Service Providers regarding an application for a Certificate of Concurrency Reservation, the Zoning Director shall review the statements and the application, and determine if it complies with all the public facility component standards of Sec. 11.4.B.6. and the density requirements of the Comprehensive Plan. If the application complies with all of the public facility component standards in Sec. 11.4.B.6 and meets the density requirements of the Comprehensive Plan, the Zoning Director shall issue a Certificate of Concurrency Reservation. If the Zoning Director determines that an application fails to meet any one (1) of the public facility component standards of Sec. 11.4.B.6, the applicant shall be notified of such deficiency, and may either:

   a. **Enter into a Ninety (90) Day Negotiation Period.** If during the ninety (90) day period, the applicant resolves the deficiencies, the application shall be reconsidered by the Zoning Director and approved or denied consistent with the standards of this Article. If the deficiencies are not resolved within ninety (90) days, the application shall be denied.

   b. **Receipt of a Certificate of Concurrency Reservation with conditions.** If the appropriate Service Provider can ensure there will be adequate public facilities with condition(s) on the Certificate of Concurrency Reservation, the Certificate of Concurrency Reservation shall be approved subject to compliance with that condition. No building permit shall be issued for development subject to a Certificate of Concurrency Reservation with conditions until all conditions have been met.

   c. **Conditional Certificate of Concurrency Reservation.**
      (1) **General.** Request approval of a Conditional Certificate of Concurrency Reservation. A Conditional Certificate of Concurrency Reservation shall be approved by the Zoning Director if it is demonstrated that:

         (a) All existing available public facility capacity up to but not greater than an amount sufficient to serve the proposed development has been reserved;
         (b) There is reasonable likelihood that the balance of the public facility capital improvements identified to provide the remaining capacity necessary to accommodate the proposed development can be provided pursuant to an Agreement;
         (c) The applicant requests consideration and approval of an Agreement concurrent with the application for a development permit for which the Conditional Certificate of Concurrency Reservation is requested for the purpose of ensuring the Certificate complies with the adequate public facility standards for a Certificate of Concurrency Reservation in Sec. 11.4.B.6.
         (d) The Conditional Certificate of Concurrency Reservation is conditioned on the concurrent approval of an Agreement and a development order for the application for development permit that complies with the adequate public facility standards for a Certificate of Concurrency Reservation in Sec. 11.4.B.6.

(2) Consideration in conjunction with an Agreement.

(a) If an Agreement, the form to be determined by the Zoning Director, is to be part of an application for a development order, then prior to the proposed development order application being considered for consistency the agreement shall be: 1) found to be in sufficient form and contain sufficient information by the County Attorney and the Zoning Director; and, 2) accompanied by applicable fee, as set in the adopted fee schedule.

(b) Prior to the Board of County Commissioners' consideration of the Agreement in conjunction with the application for development permit for which a Conditional Certificate of Concurrency Reservation has been approved, the Zoning Director shall review that component of the Agreement related to the provision of adequate public facilities for the proposed development and determine if through prior reservation of public facility capacity and the terms of the proposed Agreement, the adequate public facility standards for a Certificate of Concurrency Reservation in Sec. 11.4.B.6. are met if the terms of the Agreement is approved by the Board of County Commissioners.

(c) If the Zoning Director determines that the standards of Sec. 11.4.B.6 are met if the Agreement is approved, a conditional Certificate of Concurrency Reservation shall be issued, conditioned on the approval of the Agreement with the express terms related to the provision of the public facilities for the proposed development.

(d) Upon approval of the Agreement consistent with the terms and conditions which the Zoning Director determined would ensure compliance with the requirements of Sec. 11.4.B.6 and the development order, the Certificate of Concurrency Reservation shall become final. If the Agreement upon which the Certificate of Concurrency Reservation is conditionally issued is denied, then the Conditional Certificate of Concurrency Reservation shall expire.

(3) Performance surety required.

(a) In accordance with Sec. 15.1(I).E.5, Traffic Impact Studies, a Conditional Certification of Concurrency Reservation may be granted to ensure compliance with the Traffic Performance Standards. Performance surety may be required to be posted within six months from the date the development order is approved to install improvements resulting from the impact of the project. The performance surety shall be in a form acceptable to the Department of Engineering and Public Works.

(b) A one time six month administrative time extension may be permitted in accordance with Sec. 5.8.C.2 of this Code, provided the following standards are met:

(i) The project is located on a roadway which did not meet the Traffic Performance Standards prior to a Conditional Concurrency Reservation being issued for the project.

(ii) The traffic approval was based solely on the posting of surety for roadway improvements.

(iii) The project approval does not delay any other property owner from development since no capacity was available for the project, therefore, no trips had been reserved for the project.

(c) If an administrative time extension cannot be granted, a one time six month time extension may be requested from the Board of County Commissioners.

6. **Standards for review of application for Certificate of Concurrency Reservation.** The following standards shall be used in the determination of whether to issue, issue with conditions, or deny a Certificate of Concurrency Reservation. Before issuance of a Certificate of Concurrency Reservation, the application shall fulfill the standards for each public facility component (potable water, sanitary sewer, solid waste, drainage, parks and recreation, roads, mass transit, and fire-rescue facilities).

   a. **Potable water facilities.** The potable water component shall be approved if any of the following conditions are met:

      (1) Potable water facilities are in place to provide the proposed development sufficient services based on the LOS for potable water facilities, and a reservation of capacity has been received from the appropriate service provider;
      (2) The potable water facilities that will provide the proposed development sufficient services based on the LOS for potable water facilities are under construction and bonded, and a reservation of capacity has been received from the appropriate service provider;
      (3) The potable water facilities that will provide the proposed development sufficient services based on the LOS for potable water facilities are the subject of a binding executed contract, and a reservation of capacity has been received from the appropriate service provider;
      (4) The potable water facilities that will provide the proposed development sufficient services based on the LOS for potable water facilities are included in the County's Capital Improvement Annual Budget or the Service Provider's annual budget, and a reservation of capacity has been received from the appropriate service provider; or
      (5) The potable water facilities that will provide the proposed development sufficient services based on the LOS for potable water facilities, are committed to be provided by the applicant pursuant to a Development Agreement.

   b. **Sanitary sewer facilities.** The sanitary sewer component shall be approved if any of the following conditions are met:

      (1) Sanitary sewer facilities are in place to provide the proposed development sufficient services based on the LOS for sanitary sewer facilities, and a reservation of capacity has been received from the appropriate service provider;
      (2) The sanitary sewer facilities that will provide the proposed development sufficient services based on the LOS for sanitary sewer facilities is under construction and bonded, and a reservation of capacity has been received from the appropriate service provider;
      (3) The sanitary sewer facilities that will provide the proposed development sufficient services based on the LOS for sanitary sewer facilities are the subject of a binding and executed contract, and a reservation of capacity has been received from the appropriate service provider;
      (4) The sanitary sewer facilities that will provide the proposed development sufficient services based on the LOS for sanitary sewer facilities are included in the County's Capital Improvement Annual Budget or the Service Provider's annual budget, and a reservation of capacity has been received from the appropriate service provider; or
      (5) The sanitary sewer facilities that will provide the proposed development sufficient services based on the LOS for potable water facilities are committed to be provided by the applicant pursuant to a Development Agreement.

c. **Solid waste facilities.** The solid waste component shall be approved if any of the following conditions are met:

(1) Solid waste facilities are in place to provide the proposed development sufficient services based on the LOS for solid waste facilities;
(2) The solid waste facilities that will provide the proposed development sufficient services based on the LOS for solid waste facilities are under construction and bonded and a reservation of capacity has been provided for the facilities;
(3) The solid waste facilities that will provide the proposed development sufficient services based on the LOS for solid waste facilities are the subject of a binding and executed contract and a reservation of capacity has been provided for the facilities; or
(4) The solid waste facilities that will provide the proposed development sufficient services based on the LOS for solid waste facilities are included in the Solid Waste Authority's Annual Budget.

d. **Drainage facilities.** The drainage component shall be approved if the proposed development has a legal right to convey drainage to a point of legal positive outfall.

e. **Park and recreation facilities.** The park and recreation component shall be approved if any of the following conditions are met:

(1) Park and recreation facilities are in place to provide the proposed development sufficient services based on the LOS for park and recreation facilities, and a reservation of capacity has been provided for the facilities;
(2) The park and recreation facilities that will provide the proposed development sufficient services based on the LOS for park and recreation facilities are under construction and bonded, and a reservation of capacity has been provided for the facilities;
(3) The park and recreation facilities that will provide the proposed development sufficient services based on the LOS for park and recreation facilities are the subject of a binding and executed contract, and a reservation of capacity has been received from the appropriate service provider;
(4) The park and recreation facilities that will provide the proposed development sufficient services based on the LOS for park and recreation facilities are included in the County's Capital Improvement Annual Budget or the Service Provider's annual budget and a reservation of capacity has been received from the appropriate service provider; or
(5) The park and recreation facilities that will provide the proposed development sufficient services based on the LOS for park and recreation facilities shall be provided pursuant to the terms of a Development Agreement.

f. **Road facilities.** The road component shall be approved if the proposed development complies with Sec. 15.1, Traffic performance standards, and the LOS for road facilities. In determining whether the road component meets the requirements of this subsection, the Five (5) Year Schedule of Improvements in the CIE may be considered only if the development proposed in the application is phased so that the impacts of the proposed development and the capacity provided by the road projects in the Five (5) Year Schedule of Improvements will occur concurrently. The phasing of development and transportation improvements to ensure the LOS for road facilities is met may be addressed through a Development or Road Agreement.

g. **Mass transit facilities.** The mass transit component shall be approved if the travel demand of the proposed development does not deteriorate the LOS for mass transit facilities below the adopted LOS for mass transit facilities, and a reservation of capacity has been provided from the County.

h. **Fire-rescue facilities.** The fire-rescue component shall be approved if any of the following conditions are met:

(1) Fire-rescue facilities are in place to provide the proposed development sufficient services based on the LOS for fire-rescue facilities, and a reservation of capacity is received from the service provider;
(2) The fire-rescue facilities that will provide the proposed development sufficient services based on the LOS for fire-rescue facilities are under construction and bonded, and a reservation of capacity is received from the appropriate service provider;
(3) The fire-rescue facilities that will provide the proposed development sufficient services based on the LOS for fire-rescue facilities are the subject of a binding and executed contract, and a reservation of capacity has been received from the appropriate service provider;
(4) The fire-rescue facilities that will provide the proposed development sufficient services based on the LOS for fire-rescue facilities are included in the County's Capital Improvement Annual Budget or the Service Provider's annual budget, and a reservation of capacity has been received from the service provider; or
(5) The fire-rescue facilities that will provide the proposed development sufficient services based on the LOS for fire-rescue facilities are provided pursuant to a Development Agreement.

7. **Rules of General Applicability.**

a. **Effect.** Receipt of a Certificate of Concurrency Reservation shall constitute proof of adequate public facilities to serve the proposed development. A Certificate of Concurrency Reservation with conditions shall constitute proof of adequate public facilities to serve the proposed development only when all conditions have been met. A subsequent application for a development permit for development for which a Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions has been approved, shall be determined to have adequate public facilities as long as: 1) the development order for which the Certificate was approved has not expired; 2) all annual fees necessary to maintain the reservation are paid each year; and, 3) the development is not altered to increase the impact of the development on public facilities.

b. **Expiration.** A Certificate of Concurrency Reservation shall expire one (1) year from the date of its issuance for all development orders, except when a building permit is the only development order required. If the only required development order is a building permit, then the application for the building permit must be made prior to the expiration date of the Certificate of Concurrency Reservation. In such cases, the building permit must be issued within six (6) months, or the Certificate of Concurrency Reservation shall expire.

If the next development order is for a building permit, then application for the building permit must be made prior to the expiration date of the Certificate of Concurrency Reservation. In such cases, the building permit must be issued within six (6) months, or the Certificate of Concurrency Reservation will expire.

If a Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions either expires or becomes invalid, the public facility capacity reserved by the Certificate expires, and becomes additional available public facility capacity. An applicant cannot apply for a new Certificate of Concurrency Reservation until the previous Certificate of Concurrency Reservation has expired.

If the conditions of approval for the Concurrency Reservation with conditions or Conditional Concurrency Reservation is not met within the specified time frames, then the Concurrency Reservation shall expire. If the Concurrency Reservation with conditions or Conditional Concurrency Reservation was used to secure a Development Order, then the Development Order shall also expire.

The expiration of a development order shall result in the expiration of the Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions.

c. **Extension.** Prior to the expiration of a Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions, one extension of the reservation of up to two (2) months may be provided by the Zoning Director if it is determined that a government delay caused the failure of the development order to be issued. In no other case may an extension of time be provided.

d. **Effect.** Receipt of a Certificate of Concurrency Reservation shall constitute proof of adequate public facilities to serve the proposed development. A Certificate of Concurrency Reservation with conditions shall constitute proof of adequate public facilities to serve the proposed development only when all conditions have been met. A subsequent application for a development permit for development for which a Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions has been approved, shall be determined to have adequate public facilities as long as: 1) the development order for which the Certificate was approved has not expired; 2) all annual fees necessary to maintain the reservation are paid each year; and, 3) the development is not altered to increase the impact of the development on public facilities.

e. **Assignability and transferability.** A Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions shall not be assignable or transferable to other property, except within the same approved development. It shall be assignable or transferable to successors in interest for the same property.

f. **Phasing.** In determining whether an application for a Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions complies with the requirements of Sec. 11.4.B.6, the Zoning Director may consider the phasing of development and its coordination with public facility capital improvements for a period of up to five (5) years, or some other period consistent with the terms of an Agreement.

8. **Appeal.**

a. **General.** An applicant may appeal a decision of the Zoning Director denying an application for a Certificate of Concurrency Reservation to the Development Review Appeals Board by filing a petition with the Zoning Director appealing the decision of the Zoning Director within ten (10) days of the decision of the Zoning Director.

b. **Procedure.** The Development Review Appeals Board shall consider the appeal petition within sixty (60) days of its filing. The Development Review Appeals Board shall notify the applicant ten (10) working days before the hearing and invite the petitioner or the petitioner's representative to attend the hearing. At the hearing, the Development Review Appeals Board shall provide the petitioner and County staff an opportunity to present arguments and testimony. In making its decision, the Development Review Appeals Board shall consider only the record before the Zoning Director at the time of the decision, testimony of the petitioner and the petitioner's agent, and testimony of County Department members and Service Providers.

c. **Standard.** The Development Review Appeals Board shall reverse the decision of the Zoning Director only if there is substantial competent evidence in the record that the application complies with the standards of Sec. 11.4.B.6 or another adequate method of meeting the concurrency requirement is provided and approved. In considering all technical issues related to Road Facilities, the decision of the Traffic Performance Standards Review Board shall be binding.

9. **Amendment of Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions.** An amendment to a Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions shall be required prior to the approval of any amendment to a development order for which a Certificate has been approved if the amendment increases or decreases the need for capacity for any public facility (potable water, sanitary sewer, solid waste, drainage, parks and recreation, roads, mass transit, and fire-rescue). The amendment of a Certificate of Concurrency Reservation or a Certificate of Concurrency Reservation with conditions shall only require reservation of the additional public facility capacity demanded by the proposed development and modification of the reservation of the public facility capacity if the demand is decreased. An amendment shall be required if there is a decrease in the density or intensity of development approved in a development order. Any amendment to a development order for which an Adequate Public Facilities Determination has been approved shall require a new Adequate Public Facilities Determination or a revised Certificate of Concurrency Reservation or a revised Certificate of Concurrency Reservation with conditions, whichever is appropriate.

10. **Effect of Agreement in Conjunction with a Conditional Certificate of Concurrency Reservation.** A developer may enter into an Agreement with Palm Beach County and relevant service providers, for those public facilities specifying that an Agreement is acceptable, in conjunction with the approval of a development order and a Conditional Certificate of Concurrency Reservation, to ensure adequate public facilities are available concurrent with the impacts of development on the public facility. The effect of the Agreement shall be to bind Palm Beach County and the developer pursuant to the terms and duration of the Agreement to its determination pursuant to Sec. 11.4.C.4 that adequate public facilities are available to serve the proposed development concurrent with the impacts of the development on the public facilities. Any public facility Capital Improvement in the Five (5) Year Schedule of Capital Improvements in the CIE on which such a Conditional Certificate of Concurrency Reservation is made in conjunction with the approval of a development order and an Agreement, shall not be delayed, deferred, or removed from the Five (5) Year Schedule of Improvements in the CIE, except that any Capital Improvement may be deferred by one (1) year if the deferral is identified pursuant to the terms of an Agreement.

[Ord. No. 95-8; March 21, 1995] [Ord. No. 95-24; July 11, 1995]

SEC. 11.5 ENTITLEMENT DENSITY.

A. General. If after an appeal pursuant to Sec. 11.4.C.8, on an application for a Certificate of Concurrency Reservation is denied by the Zoning Director and that decision is affirmed by the Development Review Appeals Board, the applicant may submit an application for Entitlement Density pursuant to the procedural and substantive requirements of this section.

B. Submission of application. An application for Entitlement Density shall be submitted to the Zoning Director on a form established by the Zoning Director and made available to the public. The application shall be accompanied by a fee established by the Board of County Commissioners from time to time for the filing and processing of each application. The fee shall be non-refundable.

C. Determination of sufficiency. The Zoning Director shall initiate review of an application for Entitlement Density upon receipt of the application, and within fifteen (15) working days, determine whether the application is sufficient and includes data necessary to evaluate the application.

1. If it is determined that the application is not sufficient, written notice shall be sent to the applicant specifying the deficiencies. The Zoning Director shall take no further action on the application unless the deficiencies are remedied.

2. If the application is determined sufficient, the Zoning Director shall notify the applicant in writing of the application's sufficiency, and that the application is ready for review pursuant to the procedures and standards of this section.

D. Decision by Zoning Director. Within thirty (30) working days after the Zoning Director determines the application is sufficient, the Zoning Director shall review the application and shall approve, approve with conditions, or deny the application based upon whether it complies with the standards in Sec. 11.5.E.

E. Standards for entitlement density. An entitlement density for the proposed development shall be granted consistent with the entitlement densities permitted in the Land Use Element of the Comprehensive Plan or a minimum of one (1) dwelling unit, provided that the maximum density (dwelling unit per gross acre) as depicted on Figure 2 of the Land Use Element of the Comprehensive Plan is not exceeded, if:

1. A Certificate of Concurrency Reservation has been denied for the proposed development pursuant to the requirements of Sec. 11.4.C., and an appeal to the Development Review Appeals Board has affirmed that decision;

2. The LOS for drainage facilities for the development proposed in the application is met pursuant to the requirements of Sec. 11.4.C.6.d.;

3. A plan demonstrates how the proposed development will be designed (a) at its entitlement density and (b) at its allowable density under the Comprehensive Plan and this Code at the time the necessary public facilities are available to adequately serve the development. Any development order issued for an application for development permit for which entitlement density has been approved shall be consistent with the plans for development in this subsection. The review of a plan for development at the allowable density under this section shall in no way reserve capacity for public facilities;

4. Approval of the entitlement density is conditioned on the initiation of development of the proposed project at its allowable density subject to receipt of a Certificate of Concurrency Reservation within two (2) years of the time the necessary public facilities are available to serve the proposed development at its allowable density; and

5. In the Urban Service Area, development orders for development proceeding at entitlement densities may be permitted at rural LOS for potable water and sanitary sewage while the development is at its entitlement density.

F. Appeal.

1. **General.** An applicant may appeal any decision of the Zoning Director on an application for entitlement density to the Development Review Appeals Board by filing a petition appealing the decision to the Zoning Director within ten days of the decision.

2. **Procedure.** The Development Review Appeals Board shall consider the appeal petition within sixty (60) days of its filing. The Development Review Appeals Board shall notify the applicant within ten (10) working days of the hearing and invite the petitioner or the petitioner's representative to attend the hearing. At the hearing, the Development Review Appeals Board shall provide the petitioner and County staff an opportunity to present arguments and testimony. In making its decision, the Development Review Appeals Board shall consider only the record before the Zoning Director at the time of the decision, testimony of the petitioner and the petitioner's agent, and testimony of County staff and Service Providers.

3. **Standards.** The Development Review Appeals Board shall reverse the decision of the Zoning Director only if there is substantial competent evidence in the record that the decision failed to comply with the standards of Sec. 11.5.E.

[Ord. No. 95-8; March 21, 1995]

SEC. 11.6 CONCURRENCY EXEMPTION EXTENSION.

A. Short Title. This Section shall be known as, and may be cited as the "Concurrency Exemption Extension Ordinance of Palm Beach County, Florida."

B. Authority. This Section is adopted pursuant to Fla. Stat. Chapters 125 and 163; F.A.C. Rule 9J-5; the Florida and U.S. Constitutions; the Palm Beach County Charter; Palm Beach County Ordinance 89-35; and the 1989 Palm Beach County Comprehensive Plan, specifically: (1) Administration, Concurrency and Density Determination for Committed Development; (2) Land Use, Implementation of the Land Use Element, Zoning in Compliance/Activities to be in Conformance with Plan Element Provisions, Section 4: Status of Existing Development Approvals/Non-Conforming Uses, Structures; and (3) Capital Improvement, Policy 2-i(1), 2-j, and 2-1.

C. **Who May Submit Concurrency Exemption Extension Application.**

1. **Owner**. An Owner or group of Owners, or the authorized agent of such including the mortgager when property is proven to be in foreclosure and a court order is obtained, may submit an application for a Concurrency Exemption Extension as to particular Parcel or Parcels previously granted a concurrency exemption certificate pursuant to Ordinance 89-35. A Master Property Owner's Association may submit an application as to an area subject to it, provided specific authorization is given to such application in accordance with the declaration, articles, and by-laws.

2. **Agent's Authorization**. An application for an Owner made by an agent shall contain a written authorization signed by the Owner and notarized specifically authorizing the agent to represent the Owner as to the Owner's Lot or Parcel for a review and determination under this Ordinance.

3. **Director of the Palm Beach County Zoning Division** may initiate an application for a concurrency exemption extension for a parcel or parcels previously granted a concurrency exemption pursuant to Ordinance No. 89-35.

D. **Procedure.**

1. **Submit to Zoning**. Applications for Concurrency Exemption Extension shall be submitted to the Zoning Division of the Planning, Zoning and Building Department of Palm Beach County no sooner than five (5) months, prior to expiration of a Concurrency Exemption Certificate or Certificate of Extension. Applications will not be accepted after the expiration date of the Concurrency Exemption or Concurrency Exemption Extension Certificate.

2. **Contents of Application.**

   a. **Form**. The application shall be made on a form established by the Department of Planning, Zoning and Building and available at the Zoning Division.
   b. **Information**. The application shall contain such information as the Division requires and as reasonably necessary to provide complete information for a determination under this Ordinance, as determined by the Zoning Director including any information adverse to the Applicant.
   c. **Sworn Statement**. The Application shall contain a Sworn Statement by the applicant attesting to the truth and accuracy of the information contained therein.

3. **Review**. The Zoning Division shall review all applications timely submitted pursuant to this Ordinance. The Zoning Division shall review the application to determine whether it is technically complete. Within ten (10) working days of receipt of an application, the Zoning Director shall send a letter to the Applicant verifying the completeness, and sufficiency of the information, or requesting additional information. If Additional or revised information is required by the Zoning Director, the applicant shall have fifteen (15) working days from the date the letter is sent to submit additional or revised information. If no additional information is submitted in a timely manner, the Director shall determine that the development is not continuing in good faith. The Zoning Director shall have ten (10) working days from the date additional or revised information is submitted to determine if the application is complete and a minimum of fifteen (15) working days from the date the application is found complete to make a determination of whether or not Development is continuing in good faith based on the criteria set forth in Section Seven (7) of this Ordinance.

4. **Written Determination.** The Zoning Director shall issue either a certificate of extension or letter denying the extension. The determination of the Zoning Director shall include a legal description and Property Control Number of the property to which it applies. The Certificate of Extension shall be valid for two years from the date the Zoning Director enters the written order granting the extension. A Certificate of Extension is granted for a specific parcel of land and is not transferrable outside of the approved development. A change in ownership of a parcel of land granted concurrency exemption extension shall not extinguish the concurrency exemption extension.

E. Applicability.

1. **Limitations.** This Section is limited to determining whether or not a Project or Lot found exempt from the concurrency provisions of the 1989 Comprehensive Plan pursuant to Ordinance 89-35, the Concurrency Exemption Ordinance, is continuing in good faith and is eligible to remain exempt from the concurrency requirements of the 1989 Comprehensive Plan.

2. **Exemptions.** All Concurrency Exemptions and Certificates of Extension shall be issued for the number of units or square footage shown on the approved Site Plan or Master Plan most recently certified by the Development Review Committee. For any Master Plan or Site Plan which was approved for acreage only, the capacity for the approved use shall be calculated by the applicant and affirmed by the Zoning Division and each service provider. Any Concurrency Exemption Certificate or Certificate of Extension shall be adjusted accordingly. Any increase in units above that shown on the current Site Plan/Master Plan shall require a concurrency reservation.

   a. If a Certificate of Exemption was granted based on (1) a Development Order issued on or after January 1, 1984 or (2) a Development Order which is subject to the requirements of Sec. 5.8 of this Code, the Exemption shall remain valid so long as the applicable Development Order remains valid in accordance with Sec. 5.8 of this Code.

   b. If a Certificate of Exemption is granted based on (1) a Development Order issued prior to January 1, 1984 which is not subject to the requirements of Sec. 5.8 of this Code or (2) a Development Order issued on or after January 1, 1984 which was not subject to the requirements of Sec. 5.8 of this Code, the Exemption shall expire six (6) years from the date the Certificate of Exemption was issued unless the Project is found to be continuing in good faith in accordance with Sec. 11.6.F. below.

F. Criteria to Determine Whether Development is Continuing in Good Faith.

1. **Definitions.** Continuing in good faith shall mean, and consideration shall be made of, diligent efforts directed toward achieving the ultimate development, marketing, and use of the land, in accordance with the development order(s). Diligent efforts shall require reasonable and timely pursuit of all necessary approvals, certifications and permits; financing; and marketing, together or in a sequence customary to the industry. Factors militating against a finding of diligent efforts shall be delays occasioned by any person holding a legal or equitable interest in the property, its agents, contractors, or employees acting on behalf of the owner; marketing of the entire project as a whole, unless the project is of such a nature or size that it can only feasibly be marketed as a single unit; the discontinuation of attempts at obtaining required approvals, certifications, and permits; the discontinuation of a construction activity (including clearing, grubbing, filling, excavating, placement of infrastructure, and building construction) prior to the completion of the particular construction activity; delay of proceeding toward the next customary

phase of construction activity; the discontinuation of design work; the discontinuation of sales or leasing efforts; the removal of construction personnel, facilities, and equipment from the project; the delay of proceeding with the next phase of development.

a. The following shall not be considered as factors militating against a finding of proceeding in good faith: (a) delays caused solely by government action or inaction; (b) delays caused by administrative, quasi-judicial or judicial proceedings, which prevent development from occurring; and (c) delays caused by natural disaster or acts of God.

b. The economic state of the development industry economy shall be considered only as related to the Palm Beach County region and the development industry as a whole and not a particular market segment. Economic conditions shall only be considered for purposes of determining customary practices of local developers as a measure of the diligence and good faith of the Applicant.

c. Notwithstanding anything contained to the contrary within this Article VII, Development shall be deemed to be continuing in good faith as to a Lot which has been granted a Concurrency Exemption pursuant to Palm Beach County Ordinance 89-35 within a validly divided area which has a Local Government Development Order. Good faith may be presumed provided that all Site Improvements required by the Local Government Development Order, or as required by the Palm Beach County Subdivision Code, as a condition to obtaining a building permit upon the Lot have been installed, and that Development activity in the nature of the construction of new single family residences has taken place since the granting of the exemption or the extension thereof upon other Lots within the area.

2. **Considerations.** In determining whether development is proceeding in good faith, the County shall recognize that land development is a complex task involving a series of governmental approvals. Recognizing this, the following factors shall be considered where relevant:

a. The number and type of development orders applied for or received since the exemption certificate was issued.
b. The relationship of the development orders to other development orders in the sequence of development orders required.
c. Was each development order received within the required time-frame or were time extensions necessary.
d. Were time extensions granted and how many?
e. What, if any, development activity was commenced during each respective time extension?
f. Whether needed permits/approvals (county and others) were actively and continuously pursued.
g. The type of development orders remaining which are needed to complete the land development.
h. The time customarily associated with obtaining various development orders.
i. The percentage of development permitted and completed during the concurrency exemption or extension period compared to the size of the project and the historic average percent of development completed each year.
j. The overall extent and type of development commenced and completed as related to the project's size and use.
k. If the project is phased, were the dates of each phase met.
l. Conditions placed by the County in issuing the development order.
m. Whether any special exception conditions of approval limited or phased the amount of construction due to conditions beyond the property owner's control.

n. Fulfillment of special exception time certain conditions of approval, if any.
o. The marketing practices associated with the project; e.g. whether the entire Project is being marketed as a whole for sale.
p. The reasonable development time-line of that type and size of development.
q. The number and type of contractors, engineers, consultants, tradesman, and professionals working on the project, and their respective activities.
r. Whether any delay was caused by government changing an approved time plan for commencement of construction of infrastructure.

3. **Section 5.8 Compliance with Time Limitations.** Rezoning, revocation of a special exception, class "A" or "B" conditional use, or limiting development intensity or density to entitlement by the Board of County Commissioners pursuant to Sec. 5.8 of this Code shall be prima facie evidence that the development is not continuing in good faith and any exemption or extension thereto shall be automatically revoked.

G. Approved Residential Projects Holding Concurrency Exemption Certificates

For the following types of residential developments, the Zoning Director may initiate an application for a concurrency extension certificate provided the project received a concurrency exemption certificate properly issued pursuant to Ordinance 89-35, as amended and the following criteria are met:

1. A platted subdivision, if all required improvements have been installed or guaranteed.

2. Planned unit development, if platting schedule is maintained.

3. Phased subdivision, if plats are recorded in accordance with an approved phasing schedule.

H. Approved Non-Residential Projects Holding Concurrency Exemption Certificates

For the following types of non-residential developments, the Zoning Director may initiate an application for a concurrency extension certificate provided the project received a concurrency exemption certificate issued pursuant to Ordinance 89-35, as amended and the following criteria are met:

A platted non-residential parcel, if all required improvements associated with the plat have been installed or guaranteed.

I. Administrative Appeal

1. **General** - An applicant may appeal a decision of the Zoning Director denying Concurrency Exemption Extension by filing a petition with the Zoning Director appealing the decision to the Development Review Appeals Board within thirty (30) days of the rendition of the decision by the Zoning Director.

2. **Development Review Appeals Board Membership** - The Development Review Appeals Board shall consist of the Executive Director of the Department of Planning, Zoning and Building, the County Attorney and the County Engineer.

3. **Procedure** - The Development Review Appeals Board shall consider the appeal petition within sixty (60) days of filing. In considering the appeal, the Development Review Appeals Board shall consider only the record before the Zoning Director at the time of the decision, testimony of the petitioner and the petitioners' agents and testimony of County staff.

4. **Standard** - The Development Review Appeals Board shall reverse the decision of the Zoning Director only if there is competent substantial evidence in the record that the application complies with the standards of Sec. 11.6.F.

5. **Written Order** - The decision of the Development Review Appeals Board shall be in writing and a copy of the decision shall be forwarded to the appealing party.

6. **Appeal to Circuit Court** - An applicant may appeal a final decision of the Development Review Appeals Board within thirty (30) days of the rendition of the decision by filing a petition for Writ of Certiorari in Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

J. Vested rights.

1. **After expiration.** Any application filed after the expiration of the Certificate must demonstrate to the Development Review Appeals Board, by substantial competent evidence, that common law vesting has occurred. A petition may be filed with the Development Review Appeals Board who shall make a determination upon recommendation of the Zoning Director.

2. **Appeal to circuit court.** An applicant may appeal a final decision of the Development Review Appeals Board within thirty (30) days of the rendition of the decision by filing a petition for Writ of Certiorari in Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

[Ord. No. 95-8; March 21, 1995]

ARTICLE 12.

DEVELOPMENT AGREEMENTS

TABLE OF CONTENTS

ARTICLE 12.
DEVELOPMENT AGREEMENTS

Page

ARTICLE 12.

SEC. 12.1 PURPOSE AND INTENT 1

SEC. 12.2 AUTHORITY 1

SEC. 12.3 APPLICATION 1

SEC. 12.4 PROCEDURE FOR REVIEW OF DEVELOPMENT AGREEMENT 1
- A. Submission of application 1
- B. Determination of sufficiency 1
- C. County Department review and recommendation 2
  - 1. Concurrent with application for development permit and application for Certificate of Concurrency Reservation 2
  - 2. Independent of application for development permit 2
- D. Review and Report by Zoning Director 2
- E. Decision by Board of County Commissioners 2
  - 1. Two (2) public hearings 2
  - 2. Notice 3
  - 3. Decision 3

SEC. 12.5 STANDARDS OF A DEVELOPMENT AGREEMENT 3
- A. Legal description and owner 3
- B. Duration 3
- C. Uses, densities, intensities and height 3
- D. Future land use designation 3
- E. Zoning district designation 4
- F. Conceptual site plan 4
- G. Public facility adequacy 4
- H. Reservation or dedication of land 4
- I. Local development permits 4
- J. Local development permits obtained by applicant/property owner 4
- K. Consistency with the Comprehensive Plan 4
- L. Consistency with this Code 4
- M. Compliance with laws not identified in Development Agreement 4
- N. Breach 4
- O. Conditions necessary to ensure compliance with this Code and Comprehensive Plan 4

SEC. 12.6 EXECUTION OF DEVELOPMENT AGREEMENT 5

SEC. 12.7 RECORDATION 5

SEC. 12.8 AMENDMENT OR CANCELLATION OF DEVELOPMENT AGREEMENT BY MUTUAL CONSENT 5

SEC. 12.9 LEGISLATIVE ACT 5

SEC. 12.10 EFFECT OF EXISTING LAWS ON LANDS SUBJECT TO DEVELOPMENT AGREEMENT 5
A. Local laws at time of approval govern 5
B. Exceptions to local law requirements 5
1. Not in conflict with laws governing Development Agreement 5
2. Essential to public health, welfare and safety 6
3. Anticipated and provided for in Development Agreement 6
4. Substantial changes in conditions 6
5. Substantially inaccurate information 6

SEC. 12.11 EFFECT OF CONTRARY STATE OR FEDERAL LAWS 6

SEC. 12.12 PERIODIC REVIEW 6
A. Annual review 6
B. Initiation 6
C. Compliance 6
D. Failure to comply 6
E. Advertisement 7

SEC. 12.13 ENFORCEMENT 7

ARTICLE 12.

DEVELOPMENT AGREEMENTS

SEC. 12.1 PURPOSE AND INTENT. The purpose and intent of this article is accomplished by authorizing Development Agreements to be entered into between a developer and Palm Beach County and other service providers pursuant to the terms of this article to ensure the adequacy of public facilities and sound capital improvement planning, while providing certainty in the development review process and reducing the economic costs of development.

SEC. 12.2 AUTHORITY. The Board of County Commissioners of Palm Beach County has the authority to enter into Development Agreements consistent with the procedures and standards of this article pursuant to Art. VIII, Sec. 1, Fla. Const., the Palm Beach County Charter, Sec. 125.01, et. seq., Fla. Stat., Sec. 163.3161, et. seq., Fla. Stat., and Sec. 163.3220, et. seq., Fla. Stat. This article is supplemental and additional to the powers conferred on Palm Beach County by law and ordinances other than Sec. 163.3220, et. seq., Fla. Stat., the Florida Local Government Development Agreement Act, and shall not be regarded as being in derogation of any powers now existing.

SEC. 12.3 APPLICATION. This article shall apply to all development in the total unincorporated area of Palm Beach County, except that Development Agreements may be entered into between Palm Beach County and a developer regarding land within a municipality in Palm Beach County to comply with any land use regulation of Countywide affect, as authorized by Palm Beach County Charter, Sec. 1.3, as is amended from time to time. A municipality may, but is not required to be a party to a Development Agreement between Palm Beach County and a developer within a municipality.

SEC. 12.4 PROCEDURE FOR REVIEW OF DEVELOPMENT AGREEMENT.

A. **Submission of application.** An application for a Development Agreement shall be submitted to the Zoning Director in conjunction with or separate from any application for development permit, on a form provided by the Zoning Director and made available to the public. The application shall be accompanied by a fee established by the Board of County Commissioners from time to time for the filing and processing of each application. The fee shall be non-refundable.

B. **Determination of sufficiency.** Within fifteen (15) working days of the submission of the application for a Development Agreement, the Zoning Director shall determine whether the application is sufficient and includes the information necessary to evaluate the application based on recommendations from applicable service providers.

1. If it is determined that the application is not sufficient, written notice shall be served on the applicant specifying the deficiencies. The Zoning Director shall take no further action on the application unless the deficiencies are remedied. If the deficiencies are not remedied within twenty (20) working days, the application shall be deemed withdrawn.

2. If the application is determined sufficient, the Zoning Director shall notify the applicant in writing, of the application's sufficiency, and that the application is sufficient and ready for review pursuant to the procedures and standards of this section.

C. County Department review and recommendation.

1. **Concurrent with application for development permit and application for Certificate of Concurrency Reservation.** If an application for a Development Agreement is submitted concurrent with an application for a development permit, the application shall be processed consistent with the time frames for review of the application for a development permit when possible.

2. **Independent of application for development permit.** If an application for a Development Agreement is submitted independent of an application for a development permit, the relevant County Departments or service providers shall prepare and file with the Zoning Director within twenty (20) working days of the date the application is determined sufficient, a recommendation on the proposed Development Agreement.

D. Review and Report by Zoning Director. Within ten (10) working days after receiving all comments, or prior to the completion of a staff report on an application for development permit, if the proposed Development Agreement is being considered in conjunction with an application for development permit, the Zoning Director shall review the application and the proposed Development Agreement, and prepare a report and recommendation as to whether the application and proposed Development Agreement complies with the standards of Sec. 12.5. Upon its completion, the report and recommendation shall be mailed to the applicant by the Zoning Director.

E. Decision by Board of County Commissioners.

1. **Two (2) public hearings.** After the Zoning Director has made a recommendation on the proposed Development Agreement, the proposed Development Agreement shall be considered at two (2) public hearings.

a. The first public hearing shall be held before the Local Zoning Agency who shall review the application, the proposed Development Agreement, the recommendation of the Zoning Director, and public testimony, and recommend its approval or denial. The day, time and place at which the second public hearing will be held shall be announced at the first public hearing.

b. The second public hearing shall be before the Board of County Commissioners, who, after review and consideration of the proposed Development Agreement, the recommendations of the Zoning Director and the Local Zoning Agency, and public testimony, shall approve, approve with conditions, or disapprove the Development Agreement. The second public hearing shall be a minimum of seven (7) calendar days after the first public hearing. The day, time, and place of the second public hearing shall be announced at the first public hearing.

2. **Notice.**

   a. **General requirement.** Notice of intent to consider the proposed Development Agreement shall be advertised by the County publishing an advertisement approximately seven (7) calendar days before each public hearing on the proposed Development Agreement in a newspaper of general circulation and readership in Palm Beach County. Courtesy notice of intent to consider the proposed Development Agreement shall also be mailed by the County using envelopes and postage provided and prepared by the applicant at least fifteen (15) calendar days prior to the first public hearing on the proposed Development Agreement by certified mail, return receipt requested, to all owners of property, as reflected on the current year's tax roll, lying within three hundred (300) feet of the property directly affected by the proposed Development Agreement. Such mailed notice shall be coordinated with and combined with a notice required for an application for development permit, if relevant and appropriate.

   b. **Form.** The form of the notices of intention to consider adoption of a Development Agreement shall specify:

      (1) **Time and place.** The time and place of each hearing on the proposed Development Agreement;
      (2) **Location.** The location of the land subject to the proposed Development Agreement;
      (3) **Uses and intensities.** The development uses proposed on the property, including the proposed population densities and proposed building intensities and height; and
      (4) **Where copy can be obtained.** Instructions for obtaining further information regarding the proposed Development Agreement.

3. **Decision.** At the conclusion of the second public hearing, and based upon consideration of the proposed Development Agreement, the recommendation of the Zoning Director and the Local Zoning Agency, and public testimony received during the public hearing, the Board of County Commissioners shall approve, approve with conditions, or deny the proposed Development Agreement based upon whether it complies with the standards in Sec 12.5.

SEC. 12.5 STANDARDS OF A DEVELOPMENT AGREEMENT. A Development Agreement shall, at a minimum, include the following provisions:

A. **Legal description and owner**. A legal description of the land subject to the Development Agreement and the names of the legal and equitable owners;

B. **Duration**. The duration of the Development Agreement, which shall not exceed ten (10) years. It may be extended by mutual consent of the Board of County Commissioners of Palm Beach County and the developer, subject to a public hearing;
[Ord. No. 93-4]

C. **Uses, densities, intensities and height**. The development uses permitted on the land including population densities, building intensities and height;

D. **Future land use designation**. The land use designation of the land under the Future Land Use Element of the Comprehensive Plan;

E. **Zoning district designation**. The current zoning district designation of the land subject to the Development Agreement;

F. **Conceptual site plan**. A conceptual site plan indicating phases if the development is subject to phasing;

G. **Public facility adequacy**. A description of public facilities that will service the development, including who shall provide such facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impact of the development. Any public facilities to be designed and/or constructed by the developer shall be in compliance with all applicable Federal, State, and County standards to ensure the quality of the public facilities. The standards shall include, but not be limited to, guarantees of performance and quality, and project controls (including scheduling, quality controls, and quality assurances);

H. **Reservation or dedication of land**. A description of any reservations or dedications of land for public purposes;

I. **Local development permits**. A description of all local development orders approved or development permits needed to be approved for development of the land;

J. **Local development permits obtained by applicant/property owner**. A provision that all local development permits identified in Sec. 12.5.I shall be obtained at the sole cost of the developer/applicant and, that in the event that any such local development permits are not received, no further development of the land shall be allowed until such time as the Board of County Commissioners has reviewed the matter and determined whether or not to terminate the Development Agreement, or to modify it in a manner consistent with the public interest and the Comprehensive Plan;

K. **Consistency with the Comprehensive Plan**. A finding that the development permitted or proposed in the Development Agreement is consistent with the Comprehensive Plan;

L. **Consistency with this Code**. A finding that the development permitted or proposed in the Development Agreement is consistent with this Code;

M. **Compliance with laws not identified in Development Agreement**. A statement indicating that failure of the Development 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 that any matter or thing required to be done under the existing laws of Palm Beach County shall not be otherwise amended, modified or waived unless such modification, amendment or waiver is expressly provided for in the Development Agreement with specific reference to the provisions so waived, modified or amended;

N. **Breach**. The terms and conditions that govern a breach of the Development Agreement; and

O. **Conditions necessary to ensure compliance with this Code and Comprehensive Plan**. Such conditions, terms, restrictions or other requirements determined to be necessary by the Board of County Commissioners to ensure compliance with this Code and consistency with the Comprehensive Plan.

SEC. 12.6 EXECUTION OF DEVELOPMENT AGREEMENT. A Development Agreement shall be executed between Palm Beach County, service providers and all persons having legal or equitable title in the land subject to the Development Agreement, including the fee simple owner and any mortgagees.

SEC. 12.7 RECORDATION. Within fourteen (14) calendar days after Palm Beach County enters into a Development Agreement pursuant to this article, the Clerk to the Board of County Commissioners shall record the executed Development Agreement in the public records of Palm Beach County. A copy of the recorded and executed Development Agreement shall be submitted to the Department of Community Affairs within fourteen (14) calendar days after the Development Agreement is recorded. If the Development Agreement is amended, canceled, modified, extended, or revoked, the Clerk shall have notice of such action recorded in the public records and such recorded notice shall be submitted to DCA.

SEC. 12.8 AMENDMENT OR CANCELLATION OF DEVELOPMENT AGREEMENT BY MUTUAL CONSENT. A Development Agreement may be amended or canceled by mutual consent of the parties (the Board of County Commissioners and the developer) subject to the Development Agreement, or by their successors in interest. Prior to amending a Development Agreement, the Board of County Commissioners shall hold two (2) public hearings on the proposed amendment, consistent with the requirements of Sec. ?. An amendment to a Development Agreement does not necessarily require an amendment to a development order for which the Development Agreement has been approved by the Board of County Commissioners.

SEC. 12.9 LEGISLATIVE ACT. A Development Agreement is determined to be a legislative act of Palm Beach County in the furtherance of its powers to plan and regulate development, and as such, shall be superior to the rights of existing mortgagees, lien holders or other persons with a legal or equitable interest in the land subject to the Development Agreement, and the obligations and responsibilities arising thereunder on the property owner shall be superior to the rights of said mortgagees or lien holders and shall not be subject to foreclosure under the terms of mortgages or liens entered into or recorded prior to the execution and recordation of the Development Agreement.

SEC. 12.10 EFFECT OF EXISTING LAWS ON LANDS SUBJECT TO DEVELOPMENT AGREEMENT.

A. Local laws at time of approval govern. Upon the approval of a Development Agreement, the laws, codes, and policies of Palm Beach County in effect at the time of execution of the Development Agreement shall govern the development of the land, subject to the terms of the Development Agreement, and for the duration of the Development Agreement.

B. Exceptions to local law requirements. Palm Beach County may apply subsequently adopted laws to the lands that are subject to a Development Agreement only if the Board of County Commissioners holds one (1) public hearing noticed pursuant to the requirements of Sec. 12.4.E.2. and determines any one (1) of the following:

1. **Not in conflict with laws governing Development Agreement.** The subsequently adopted laws are not in conflict with the laws governing the Development Agreement, and do not prevent development of the land uses, intensities, or densities in the Development Agreement;

2. **Essential to public health, welfare and safety.** The subsequently adopted laws 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;

3. **Anticipated and provided for in Development Agreement.** The subsequently adopted laws are specifically anticipated and provided for in the Development Agreement;

4. **Substantial changes in conditions.** Palm Beach County demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the Development Agreement; or

5. **Substantially inaccurate information.** The Development Agreement is based on substantially inaccurate information supplied by the developer.

SEC. 12.11 **EFFECT OF CONTRARY STATE OR FEDERAL LAWS.** In the event that state and federal laws are enacted after the execution of a Development Agreement which are applicable to and preclude the parties compliance with the terms of the Development Agreement, such Development Agreement shall be modified or revoked as is necessary to comply with the relevant state or federal laws. Such modification or revocation shall occur only after notice and public hearing pursuant to Sec. 12.4.E.

SEC. 12.12 **PERIODIC REVIEW.**

A. **Annual review.** The Board of County Commissioners may review the development subject to the Development Agreement every twelve (12) months, commencing twelve (12) months after the effective date of the Development Agreement.

B. **Initiation.** The annual review shall be initiated by the developer subject to the Development Agreement submitting an annual report to the Zoning Director. The initial annual report shall be submitted by the developer eleven (11) months after the effective date of the Development Agreement, and every twelve (12) months thereafter.

C. **Compliance.** If the Zoning Director finds and determines that the developer has complied in good faith with the terms and conditions of the Development Agreement during the period under review, the review for that period is concluded.

D. **Failure to comply.** If the Zoning Director makes a preliminary finding that there has been a failure to comply with the terms of the Development Agreement, the Development Agreement shall be referred to the Board of County Commissioners, who shall conduct two (2) public hearings pursuant to the requirements of Sec. 12.4.E., at which the developer may demonstrate good faith compliance with the terms of the Development Agreement. Except that, at the option of the governing body, one of the public hearings may be held by the Local Zoning Agency. If the Board of County Commissioners finds and determines during the public hearings, on the basis of substantial competent evidence, that the developer has not complied in good faith with the terms and conditions of the Development Agreement during the period under review, the Board of County Commissioners may modify or revoke the Development Agreement.

E. **Advertisement**. The advertisement cost for the Board of County Commissioners Annual Review of the Development Agreement shall be the responsibility of the applicant.

[Ord. No. 93-4]

SEC. 12.13 ENFORCEMENT. Any party or any aggrieved or adversely affected person may file an action for injunctive relief in the Circuit Court for Palm Beach County to enforce the terms of a Development Agreement or to challenge compliance of the Development Agreement with the provisions of this article and Sec. 163.3220, Fla. Stat.

[Ord. No. 93-4; February 2, 1993]

ARTICLE 13.

RESERVED FOR FUTURE USE

ARTICLE 14.

ENFORCEMENT PROCEEDINGS AND PENALTIES

TABLE OF CONTENTS

ARTICLE 14.
ENFORCEMENT PROCEEDINGS AND PENALTIES

		Page
SEC. 14.1	GENERAL	1
SEC. 14.2	ENFORCEMENT BY CODE ENFORCEMENT BOARD AND/OR SPECIAL MASTER	1
A.	Procedure.	1
B.	Conduct of Hearing	2
C.	Powers	3
D.	Administrative fines; costs; liens.	4
E.	Other legal remedies	5
F.	Other administrative remedies	5
1.	Cease and Desist Orders	5
2.	Building Permits and Certificates of Occupancy and Use	5
G.	Appeal	6
H.	Notices.	6
SEC. 14.3	GROUNDWATER AND NATURAL RESOURCES PROTECTION BOARD	6
A.	Warning of violation	6
B.	Issuance of violation citation	6
C.	Notice of hearing	6
D.	Correction of violation	7
E.	Counsel	7
F.	Procedure at hearings	7
G.	Powers	8
H.	Administrative fines; liens.	8
I.	Appeal	9
SEC. 14.4	ENVIRONMENTAL CONTROL HEARING BOARD.	9
A.	Warning Violation	9
B.	Show Cause	9
C.	Notice of Hearing	9
D.	Procedure at Hearings	9
E.	Action by Environmental Control Hearing Board	9
F.	Notification of Action	9
G.	Stop work on existing approval	10
H.	Fine	10
I.	Fine Constitutes Lien	10
J.	Judicial Review	10
SEC. 14.5	ENFORCEMENT BY ENVIRONMENTAL CONTROL HEARING BOARD	10

SEC. 14.6 ADMINISTRATIVE REMEDIES FOR ARTICLE 9, SECTION 7.5 (VEGETATION PRESERVATION AND PROTECTION) AND SECTION 7.6 (EXCAVATION) 10
A. Conditions 10

SEC. 14.7 CIVIL REMEDIES 11

SEC. 14.8 CRIMINAL REMEDIES 11

ARTICLE 14.

ENFORCEMENT PROCEEDINGS AND PENALTIES

SEC. 14.1 GENERAL. The provisions of this Code shall be enforced by(1) the Palm Beach County Code Enforcement Board and/or Special Master pursuant to the authority granted by Sec. 162.01 et. seq., Fla. Stat., as may be amended, (2) the Palm Beach County Environmental Control Hearing Board pursuant to the Palm Beach County Environmental Control Act, Chapter 77-616, Special Acts, Laws of Florida, as may be amended, (3) the Palm Beach County Groundwater and Natural Resources Protection Board, an alternate code enforcement board created pursuant to the authority granted by Sec. 162.03(2) et. seq., Fla. Stat., as may be amended, (4) the Board of County Commissioners through its authority to enjoin and restrain any person violating the Code, or (5) Palm Beach County through the prosecution of violations in the name of the State of Florida pursuant to the authority granted by Sec. 125.69, Fla. Stat., as may be amended.

[Ord. No. 95-24]

SEC. 14.2 ENFORCEMENT BY CODE ENFORCEMENT BOARD AND/OR SPECIAL MASTER. The Code Enforcement Board and/or Special Master shall have the jurisdiction and authority to hear and decide alleged violations of the codes and ordinances enacted by Palm Beach County including, but not limited to the following codes: building, electrical, fire, gas, landscape, plumbing, sign, zoning and any other similar type codes which may be passed by Palm Beach County in the future which regulate aesthetics, construction, safety, or location or any structure on real property in Palm Beach County. Further, any violation(s) of Articles 1 through 8 and Articles 10 through 12, except Secs. 7.5 and 7.6, of this Code may be prosecuted pursuant to the following standards and procedures. For the purposes of this Section 14.2, the term "repeat violation" shall mean a violation of a provision of a code or ordinance by a person whom the Code Enforcement Board of Special Master has previously found to have violated the same provision within five years prior to the violation.

A. **Procedure.** Alleged violation of any of those codes or ordinances of Palm Beach County as described herein may be filed with the Code Enforcement Division by citizens or those administrative officials who have the responsibility of enforcing the various codes or ordinances in force in Palm Beach County.

1. Except as set forth in paragraphs **2.** and **3.** below, if violation(s) of a code or ordinance is believed to exist, the Code Enforcement Division shall specify a reasonable time to correct the violation(s). Should the violation(s) continue beyond the time specified for correction, the Code Enforcement Division shall give notice to the alleged violator that a Code Enforcement hearing will be conducted concerning the alleged violation(s) as noticed. The notice shall state the time and place of the hearing, as well as the violation(s) which are alleged to exist. At the option of the Code Enforcement Board and/or Special Master, notice may additionally be served by publication or posting as set forth in Section 14.2.G. of this Code. If the violation is corrected and then repeated or if the violation is not corrected by the time specified for correction by the code inspector, the case may be brought for hearing even if the violation has been corrected prior to hearing, and the notice of violation shall so state. If the code enforcement officer has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety and

welfare or if the violation is irreparable or irreversible in nature, the code officer shall make a reasonable effort to notify the violator and may immediately notify the enforcement board and request a hearing.

2. If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall request a hearing. The Code Enforcement Division shall give notice to the alleged violator as set forth in paragraph 1. above. The case may be brought for hearing even if the repeat violation has been corrected prior to hearing, and the notice shall so state.

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

[Ord. No. 94-23] [Ord. No. 95-24]

B. Conduct of Hearing.

1. Upon request of the code inspector, or at such other times as may be necessary, a hearing before the Code Enforcement Board and/or a Code Enforcement Special Master may be convened. Minutes shall be kept of all Code Enforcement hearings, and all hearings shall be open to the public.

2. At the hearing, the burden of proof shall be upon the Code Enforcement Division to show by a preponderance of the evidence that a violation(s) does exist. Where proper notice of the hearing has been provided to the alleged violator as provided for herein, a hearing may proceed even in the absence of the alleged violator.

3. Proper notice may be assumed where a notice of violation has been mailed to the alleged violator by certified mail and the alleged violator, his or her agent, or other person in the household or business has accepted the notice of violation, or where a Code Enforcement Officer, under oath testifies that he/she did hand deliver the notice to the alleged violator. All testimony shall be under oath and shall be recorded. The formal rules of evidence shall not apply but fundamental due process shall be observed and shall govern the proceedings. Upon determination of the Chairperson, irrelevant, immaterial or unduly repetitious evidence may be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form.

4. Any member of the Code Enforcement Board and/or Special Master, or the attorney representing the Code Enforcement Board and/or Special Master, may inquire of or question any witness present at the hearing. Any member of the Code Enforcement Board and/or Special Master, an alleged violator (hereinafter also referred to as respondent), his/her attorney, or Code Enforcement Officers shall be permitted to inquire of or question any witness present at the hearing. The Code Enforcement Board and/or Special Master may consider testimony presented by Code Enforcement Officers, the respondent or any other witnesses.

5. At the conclusion of the hearing, the Code Enforcement Board and/or Special Master shall orally render its decision (order) based on evidence entered into the record. In the case of hearings before the Code Enforcement Board, the decision shall be by motion approved by the affirmative vote of those members present and voting, except that at least four (4) members of the Code Enforcement Board must vote for the action to be official. The decision shall then be transmitted to the respondent in the form of a written order including findings of fact, and conclusions of law consistent with the record. The order shall be transmitted by mail to the respondent within ten (10) days after the hearing. The order may include a notice that it must be complied with by a specified date and that a fine and costs may be imposed and, under the circumstances set forth in Section 14.2.A.3., the cost of repairs or other corrective action may be included along with the fine if the order is not complied with by said date. A certified copy of such order may be recorded in the public records of Palm Beach County and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this paragraph and the order is complied with by the date specified in the order, the Code Enforcement Board or Special Master shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

6. If Palm Beach County prevails in prosecuting a case before the Code Enforcement Board and/or Special Master, it shall be entitled to recover all costs incurred. Whether and to what extent such costs are imposed shall be within the discretion of the Code Enforcement Board and/or Special Master but shall not exceed the costs incurred.

[Ord. No. 95-24]

C. **Powers.** The Enforcement Board shall have the power to:

1. Adopt rules for the conduct of its hearings.
2. Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by a Sheriff or other authorized persons consistent with Rule 1.410(c), Florida Rules of Civil Procedure upon request by the Chairperson.
3. Subpoena records, surveys, plats and other documentary materials.
4. Take testimony under oath.
5. Issue orders having the full force and effect of law to command whatever steps are necessary to bring a violation into compliance.
6. Assess fines pursuant to Sec. 14.2.D. (Administrative fines; costs; liens) of this Article, including costs relating to the prosecution of cases before the board in those cases where the governing body prevails.
7. Lien property pursuant to Sec. 14.2.D. (Administrative fines; costs; liens) of this Article.
8. Assess costs pursuant to Sec. 14.2.B.6. of this Article.
9. Assess costs pursuant to Sec. 14.2.D.1. of this Article.

[Ord. No. 94-23]

D. Administrative fines; costs; liens.

1. The Code Enforcement Board and/or Special Master, upon notification by the code inspector that a Code Enforcement Order has not been complied within the set time or, upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date for compliance set forth in the order, or in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code inspector. In addition, if the violation is a violation described in Section 14.2.A.3., the Code Enforcement Board and/or Special Master shall notify the Board of County Commissioners, which may make all reasonable repairs or other corrective actions which are required to b ring the property into compliance and charge the violator with the reasonable costs of the repairs or other corrective actions along with the fine imposed pursuant to this section. If a finding of a violation or a repeat violation has been made as provided in this part, a hearing shall not be necessary for issuance of the order imposing the fine.

   Persons charged with such violation(s) may include:

   (a) The owner, agent, lessee, tenant, contractor, or any other person using the land, building, or premises where such violation has been committed or shall exist.
   (b) Any person who knowingly commits, takes part or assists in such violation.
   (c) Any person who maintains any land, building, or premises in which such violation shall exist.

2. A fine imposed pursuant to this Section shall not exceed $250 per day for a first violation and shall not exceed $500 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to paragraph **1.** of this Section. In determining the amount of fine, if any, the Code Enforcement Board and/or Special Master shall consider the following factors: 1) the gravity of the violation; 2) any actions taken by the violator to correct the violation; and 3) any previous violations committed by the violator.

3. The Code Enforcement Board and/or Special Master may reduce any fine imposed pursuant to this Section. The Code Enforcement Board and/or Special Master may authorize the Code Enforcement Division to propose a Consent Order which sets forth agreed terms for payment of any fine. The Code Enforcement Board and/or Special Master may in its discretion adopt such Consent Order in lieu of execution or foreclosure as set forth in paragraph **4.** below.

4. A certified copy of an order imposing a fine may be recorded in the public records in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida. Once recorded the certified copy of an order shall constitute a lien against the land on which the violation(s) exists and upon any other real or personal property owned by the violator; and it may be enforced in the same manner as a court judgment by the Sheriffs of this State, including levy against the personal property, but such order shall not be deemed to be a court judgement except for enforcement purposes. A fine imposed pursuant to this Section shall continue to accrue until the violator comes into compliance or until judgement is rendered in a suit to foreclose on a lien, filed pursuant to this Section, whichever comes first. Once recorded the lien shall be superior to any mortgages, liens, or other instruments recorded subsequent to the filing of the Enforcement Board lien.

5. After three (3) months from the filing of any such lien which remains unpaid, the County may foreclose the lien in the same manner as mortgage liens are foreclosed. Such lien shall bear interest at the rate allowable by law from the date of compliance set forth in the recorded order acknowledging compliance. The local government body shall be entitled to collect all costs incurred in recording and satisfying a valid lien. No lien created pursuant to the provisions of this ordinance may be foreclosed on real property which is a homestead under Article X, Section 4, of the Florida Constitution.

[Ord. No. 92-34] [Ord. No. 93-4] [Ord. No. 93-17] [Ord. No. 94-23] [Ord. No. 95-24]

E. Other legal remedies. In addition to the criminal penalties and enforcement procedures provided in subsection C above, the Board of County Commissioners may institute any lawful civil action or proceeding to prevent, restrain or abate:

a. The unlawful construction, erection, reconstruction, alteration, rehabilitation, expansion, maintenance or use of any building or structure; or

b. the occupancy of such building, structure, land or water; or

c. the illegal act, conduct, business, or use of, in or about such premises.

F. Other administrative remedies.

1. **Cease and Desist Orders.** The department shall have the authority to issue cease and desist orders in the form of written official notices given to the owner of the subject building, property, or premises, or to his agent, lessee, tenant, contractor, or to any person using the land, building or premises where such violation has been committed or shall exist.

2. **Building Permits and Certificates of Occupancy and Use.**

a. **Issuance.** No building permit or certificate of occupancy and use shall be issued by the department for any purpose except in compliance with the provisions of this Code and other applicable ordinances and laws, a decision or the Board of Adjustment, or court decision.

b. **Revocation.** The department may revoke a building permit or certificate of occupancy and use in those cases where an administrative determination has been duly made that false statements or misrepresentations existed as to material fact(s) in the application or plans upon which the permit or approval was based.

c. **Suspension.** The department may suspend a building permit or certificate of occupancy and use where an administrative determination has been duly made that an error or omission on either the part of the permit applicant or government agency existed in the issuance of the permit or certificate approval.

A valid permit or certificate shall be issued in place of the incorrect permit or certificate after correction of the error or omission.

[Ord. No. 93-4]

G. Appeal. Any aggrieved party may appeal an order of the Code Enforcement Board and/or Special Master, including Palm Beach County, to the Circuit Court of Palm Beach County, Florida. Such appeal shall not be a hearing de novo, but shall be a petition for Writ of Certiorari and the Court shall be limited to appellate review of the record created before the Enforcement Board. Any appeal filed pursuant to this Article shall be considered timely if it was filed within thirty (30) days after the hearing at which the order was announced. The County may assess a reasonable charge for the preparation of the record to be paid by the petitioner in accordance with Section 119.07, Florida Statutes.

H. Notices. All notices required by this ordinance shall be by certified mail, return receipt requested, or when mail is not effective, by hand delivery by a Code Enforcement Officer. Notice may also be provided by publication or posting, consistent with the provisions of Chapter 162, Florida Statutes as may be amended from time to time. This section shall not apply to notice of special meetings as described in Article 4 of this Code. Notice placed shall contain at a minimum, the date, and time of the scheduled meeting of the Enforcement Board during which time the alleged violator is required to appear; the name and address of the alleged violator; the address or legal description of the property wherein the alleged violation(s)s has occurred; and those codes or provisions of a code for which the alleged violator has been cited.

[Ord. No. 92-34; November 25, 1992] [Ord. No. 93-4; February 2, 1993] [Ord. No. 93-17; July 20, 1993] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-24; July 11, 1995]

SEC. 14.3 GROUNDWATER AND NATURAL RESOURCES PROTECTION BOARD. Any violation of Art.9 (except Sec. 9.4) , Sec. 7.5, or Sec. 7.6, of this Code may be referred by ERM and prosecuted by the Groundwater and Natural Resources Protection Board pursuant to the following standards and procedures.

A. Warning of violation. If an alleged violation of Art. 9 (except Sec. 9.4), Sec. 7.5 or Sec. 7.6 of this Code is found, the Director of ERM shall notify the alleged property owner and/or violator and give the alleged property owner and/or violator reasonable time to correct the violation. If the alleged violation is causing irreparable and irreversible harm, the Director of ERM shall make a reasonable effort to notify the violator and may immediately notice the Groundwater and Natural Resources Protection Board and request a hearing.

B. Issuance of violation citation. Should the violation continue beyond the time specified for correction, or irreparable and irreversible harm has occurred, the Director of ERM shall issue a Notice of Hearing to the alleged property owner and/or violator which shall include a reference to the particular section of Article 9, Sec. 7.5, or Sec. 7.6 that is allegedly violated, and the date and time of the hearing.

C. Notice of hearing. A Notice of Hearing shall be provided to the alleged violator by hand delivery, certified mail (return receipt requested) or left at the alleged property owners and/or violators usual place of residence with any person residing therein who is above fifteen (15) years of age and informed of the contents of the notice. The Notice of Hearing shall contain a statement of the time, place and nature of the hearing before the Groundwater and Natural Resources Protection Board.

D. **Correction of violation**. If the alleged violation is corrected and then recurs, or if the violation is not correct by the time specified for correction, the Director of ERM may issue a Violation Citation and a Notice of Hearing to the alleged property owner and/or violator and schedule a hearing. The Groundwater and Natural Resources Protection Board may hear the alleged violation in this instance, even if it has been corrected prior to the Board hearing and every notice shall so state.

E. **Counsel**. The County Attorney shall be counsel to the Groundwater and Natural Resources Protection Board.

F. **Procedure at hearings**. Alleged violations of any of those sections described herein may be filed with the Groundwater and Natural Resources Protection Board by citizens or those officials who have the responsibility of enforcing such sections.

1. The Groundwater and Natural Resources Protection Board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. Each case before the Groundwater and Natural Resources Protection Board shall be presented by the Director of ERM. The Groundwater and Natural Resources Protection Board shall take testimony from County staff, if relevant, the alleged property owner and/or violator, and other relevant testimony. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings. Upon determination of the chairperson, irrelevant, immaterial or unduly repetitious evidence may be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. The burden of proof shall be upon the Director of ERM to show by a preponderance of the evidence that a violation does exist.

2. Any member of the Groundwater and Natural Resources Protection Board, or the attorney representing the Groundwater and Natural Resources Protection Board, may inquire of or question any witness before the Groundwater and Natural Resources Protection Board. Any member of the Groundwater and Natural Resources Protection Board, an alleged violator (hereinafter also referred to as respondent) his/her attorney, or Code Officers shall be permitted to inquire of any witness before the Groundwater and Natural Resources Protection Board. The Groundwater and Natural Resources Protection Board may consider testimony presented by ERM, the respondent or any other witnesses.

3. At the conclusion of the hearing, the Groundwater and Natural Resources Protection Board shall orally render its decision (order) based on evidence entered into the record. The decision shall be by motion approved by the affirmative vote of those members present and voting, except that at least four (4) members of the Groundwater and Natural Resources Protection Board must vote for the action to be official. The Groundwater and Natural Resources Protection Board's decision shall then be transmitted to the respondent in the form of a written order including finding of facts, and conclusions of law consistent with the record. The order shall be transmitted by certified mail to the respondent within ten (10) days after the hearing.

G. **Powers.** The Groundwater and Natural Resources Protection Board shall have the power to:

1. Adopt rules for the conduct of its hearings.
2. Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by a Sheriff or other authorized persons consistent with Rule 1.410(c), Florida Rules of Civil Procedure upon request by the Chairperson.
3. Subpoena records, surveys, plats and other documentary materials.
4. Take testimony under oath.
5. Issue orders having the full force and effect of law to command whatever steps are necessary to bring a violation into compliance.
6. Assess fines pursuant to Sec. 14.3.H (Administrative fines; liens) of this Article.
7. Lien property pursuant to Sec. 14.3.H (Administrative fines; liens) of this Article.

H. **Administrative fines; liens.**

1. Whenever one of the Groundwater and Natural Resources Protection Board's orders has not been complied with by the time set for compliance, or if the same violation has been repeated by the same violator, the Groundwater and Natural Resources Protection Board may order the violator to pay a fine not to exceed two-hundred fifty dollars ($250.00) for each day thereafter during which each violation continues past the date set for compliance, and up to five hundred dollars ($500) for each day for a repeat violation. In determining the amount of a fine, the Groundwater and Natural Resources Protection Board shall consider the following factors: (a) the gravity of the violation(s); (b) any actions taken by the violator to correct the violation(s); and (c) any previous violations committed by the violator. The Groundwater and Natural Resources Protection Board may consider any other factors pertaining to the violator or violation(s) which it deems relevant and shall not be limited to the above recited factors.

2. The Director of ERM may record a certified copy of an order imposing a fine in the public records in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida. Once recorded the certified copy of an order shall constitute a lien against the land on which the violation(s) exists, or if the violator does not own the land, upon any other real or personal property owned by the violator; and it may be enforced in the same manner as a court judgment, including levy against the personal property. Once recorded the lien shall be superior to any mortgages, liens, or other instruments recorded subsequent to the filing of the Groundwater and Natural Resources Protection Board lien.

3. After six (6) months from the filing of any such lien which remains unpaid, the County may foreclose the lien in the same manner as mortgage liens are foreclosed. Such lien shall be superior to all other liens except liens for taxes, and shall bear interest at the rate of ten percent (10%) per annum from the date recorded. No lien created pursuant to the provisions of this ordinance may be foreclosed on real property which is a homestead under Article X, Section 4, of the Florida Constitution.

I. **Appeal.** Any aggrieved party may appeal an order of the Groundwater and Natural Resources Protection Board, including Palm Beach County, to the Circuit Court of Palm Beach County, Florida. Such appeal shall not be a hearing de novo, but shall be a petition for Writ of Certiorari and the Court shall be limited to appellate review of the record created before the Groundwater and Natural Resources Protection Board. Any appeal filed pursuant to this Article shall be considered timely if it was filed within thirty (30) days after the hearing at which the order was announced. The County may assess a reasonable charge for the preparation of the record to be paid by the petition in accordance with Sec. 119.07, Fla. Stat.

SEC. 14.4 ENVIRONMENTAL CONTROL HEARING BOARD. Any violation of Secs. 7.4, 16.1 or 16.2 may be prosecuted by the Environmental Control Hearing Board (ECHB).

A. **Warning Violation.** If an alleged violation of Secs. 7.4, 16.1 or 16.2 is determined by the Palm Beach County Public Health Unit (PBCPHU), the County Health Director shall issue a formal notice of violation to the property owner and/or violator. The notice shall specify the corrective actions and a reasonable period of time to correct the violation.

B. **Show Cause.** Should the violation continue beyond the specified time for correction or if an activity was conducted without a required permit/approval or if the violation created a health threat, the County Health Director shall refer the matter to the Environmental Control Office for enforcement. The Environmental Control Officer shall request the Environmental Control Hearing Board to issue a show cause order to the property owner and/or violator.

C. **Notice of Hearing.** If the Environmental Control Hearing Board issues a show cause order, the subject order shall be sent by certified mail to the property owner and/or violator and shall include notification of the time, place and nature of the hearing.

D. **Procedure at Hearings.** The Environmental Control Hearing Board shall proceed to hear the cases scheduled for the day. All testimony shall be under oath and shall be recorded. Each case will be presented by the Environmental Control Officer with testimony and evidence from PBCPHU staff. The property owner or violator may be represented by an attorney and shall be given the Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings.

E. **Action by Environmental Control Hearing Board.** At the conclusion of the Hearing, the Environmental Control Hearing Board shall issue findings of fact, based on evidence in the record, and conclusions of law and shall issue an order consistent with powers granted in Chapter 77-616, Special Act, Laws of Florida. The order may include a notice of corrective action that must be completed by a specified date and the amount of fine to be paid by a specified date. The order shall have the force of law to command whatever steps are necessary to bring a violation into compliance. The findings shall be by motion approved by a majority of those present and voting, except that a quorum of at least three (3) members shall be present for the action to be official.

F. **Notification of Action.** Notification of the Environmental Control Hearing Board action including findings of fact and conclusions of law consistent with the record shall be delivered to the property owner and/or violator by certified mail within fifteen (15) working days of board action.

G. **Stop work on existing approval.** The County may withhold issuance of any subsequent development orders for the development of the subject property or inform the property owner and/or violator that no further work under an existing development order may proceed until the violation has been corrected.

H. **Fine.** The Environmental Control Hearing Board may order the property owner and/or violator to pay a fine of up to $500/day for each violation.

I. **Fine Constitutes Lien.** If the fine imposed by the Environmental Control Hearing Board is not paid within the time specified in the Board Order, a certified copy of the order may be recorded in the public records of the office of the Clerk of the Circuit Court for Palm Beach County, Florida and thereafter shall constitute a lien against the land on which the violation exists.

J. **Judicial Review.** Any person aggrieved by any action of the Environmental Control Hearing Board may seek judicial review as provided by Section 120.68, Florida Statutes. No action shall be taken to collect fines imposed for violation of this act until judgement becomes final.

SEC. 14.5 ENFORCEMENT BY ENVIRONMENTAL CONTROL HEARING BOARD. Any violation of Sec. 9.4, the Wetlands Protection Ordinance, of Article 9, Environmental Standards, may be referred by ERM and prosecuted by the Environmental Control Hearing Board. ERM shall have available to it all enforcement remedies made available pursuant to the provisions of Chapter 77-616, Special Acts, Laws of Florida, and any amendments.

SEC. 14.6 ADMINISTRATIVE REMEDIES FOR ARTICLE 9, SECTION 7.5 (VEGETATION PRESERVATION AND PROTECTION) AND SECTION 7.6 (EXCAVATION). In order to provide an expeditious settlement that would be beneficial to the enforcement of the provisions of Article 9, Sec. 7.5 and Sec. 7.6 and be in the best interest of the citizens of Palm Beach County, the Director of ERM is authorized to enter into voluntary consent agreements with alleged violators. Any such agreement shall be a formal written consent agreement between the Department of Environmental Resources Management on behalf of Palm Beach County, by and through its Director, and any such alleged violators, and shall be approved as to form and legal sufficiency by the County Attorney's Office.

A. **Conditions.** Such consent agreements may be conditioned upon a promise by the alleged violator to:

1. Restore, mitigate, and/or maintain sites; or

2. Remit payment of a monetary settlement not to exceed the maximum amount allowed per violation, as set forth in the applicable act, delegated authority or Code, such monies to be deposited in the Palm Beach County Pollution Recovery Trust Fund; or

3. Remit payment for compensatory damages and costs and expenses of the County in tracing the source of the discharge, in controlling and abating the source of the pollutants and the pollutants themselves, and in restoring the waters and property, including animal, plant and aquatic life, of the County to their former conditions; and costs of the County for investigation, enforcement, testing, monitoring, and litigation; such monies to be deposited in the Palm Beach County Pollution Recovery Trust Fund; or

4. Any other remedies and/or corrective action provided for in the applicable act, delegated authority or Code, deemed necessary and appropriate by the Director of ERM to ensure compliance with such act or Code.

B. Such consent agreements shall not serve as evidence of a violation of any applicable act or Code, and shall expressly state that the alleged violator neither admits nor denies culpability for the alleged violations by entering into such agreement. In addition, prior to entering into any such consent agreement, each alleged violator shall be apprised of the right to have the matter heard in accordance with the provisions of the applicable act or Code, and that execution of the agreement is not required.

C. Such consent agreements shall be valid and enforceable in a court of competent jurisdiction in Palm Beach County and shall abate any enforcement proceedings available to the Director of ERM for so long as the terms and conditions of such agreement are complied with. In the event an alleged violator fails to comply with the terms and conditions set forth in the executed agreement, the Director of ERM may either:

1. Consider the consent agreement void and pursue any remedies available for enforcement of the applicable provisions of the Code; or

2. Initiate appropriate legal proceedings for specific performance of the consent agreement.

SEC. 14.7 CIVIL REMEDIES. The Palm Beach County Board of County Commissioners or any aggrieved or interested person shall have the right to apply to the Circuit Court of Palm Beach County, Florida, to enjoin and restrain any person violating the provisions of this Code, and the Court shall, upon proof of the violation of same, have the duty to forthwith issue such temporary and permanent injunctions as are necessary to prevent the violation of same.

SEC. 14.8 CRIMINAL REMEDIES. Pursuant to Sec. 125.69(1), Fla. Stat., any person violating any of the provisions of this Code or who shall fail to abide by and obey all orders and resolutions promulgated as herein provided, shall, upon conviction, be guilty of a misdemeanor, and shall be subject to all criminal penalties authorized by the State of Florida for such violation, including a fine not to exceed five hundred dollars ($500) or imprisonment for not more than sixty (60) days, or both for each violation, and payment of all costs and expenses involved in prosecuting the offense. Each day that a violation continues shall constitute a separate violation.

[Ord. No. 92-34; November 25, 1992] [Ord. No. 93-4; February 2, 1993] [Ord. No. 93-17; July 20, 1993] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-24; July 11, 1995]

ARTICLE 15.

TRAFFIC PERFORMANCE STANDARDS

TABLE OF CONTENTS

ARTICLE 15
TRAFFIC PERFORMANCE STANDARDS

Page

SECTION 15(I) A - INTENT AND AUTHORITY 1
INTENT 1
AUTHORITY 1

SECTION 15(I) B - DEFINITIONS 1
Subsection 1. Other Definitions 1
Subsection 2. Terms Herein 1

SECTION 15.(I) C - APPLICABILITY 11
Subsection 1. Generally 11
Subsection 2. Previously-approved Development Orders 12
(A) Amendments to Site Specific Development Order 12
(B) Existing Use 12
(C) Amendments to Development Orders 12
(D) Amendments to Entitlement 12
(E) Amendments Requiring Performance Security 13
(F) Redistribution of Traffic 13
Subsection 3. Non-applicability 13
(A) Local Government Applications 13
(B) Development Order Time Limit Criteria 13
(C) Entitlement 13
(D) Special Events 13
(E) Estoppel 13
(F) Subsequent or amending Development Orders 14
(G) Vested Rights 14
(H) Exceptions 14
(I) Requirements 14
Subsection 4. Municipal Determination of Previous Approval 14
(A) Validity 14
(B) Procedures 14
(C) Timing 14
(D) Additional information 15
(E) Period to file 15
(F) Delivery 15
(G) Appeals 15
(H) Limitation on County's Review/Appeal 15

(I) Completion of previous approvals 15
Subsection 5. Municipal Concurrency Management System 15

SECTION 15.(I) D - STANDARD 16
Subsection 1. Generally 16
Subsection 2. Buildout/Model Standard 16
(A) LINK/Buildout test - Test 1 16
(B) Model test/Test 2 17
TABLE 1A 18
TABLE 1B 19
(D) Intersection Review 20
(E) Maximum Radius of Development Influence 20
TABLE 2A 20
TABLE 2B 21
(F) Phasing 21
(G) Reliance on Assured Road Construction 22
(H) DRI 22

SECTION 15.(I) E - TRAFFIC IMPACT STUDIES 23
Subsection 1. Generally 23
Subsection 2. Traffic Impact Study 23
(A) Scope 23
(B) Methodology 23
TABLE 4 26
TABLE 5 27
Subsection 3. Detailed Analysis of Alternate Test One 29
(A) Analysis 29
(B) Effect of Detailed Analysis 30
(C) Off-Peak to Peak Season factors 30
Subsection 4. Site Related Improvements 30
Subsection 5. Conditions 30

SECTION 15.(I) F - MODELING OF TRIPS 31
Subsection 1. Generally 31
Subsection 2. Relationship to Traffic Impact Studies 31
(A) Intent 31
(B) Utilization 31
Subsection 3. Iterative Model 31
(A) Information in Plan's Table 2 31
(B) Municipal Responsibility 31
Subsection 4. Adjustments 32
(A) AADT 32
(B) Phasing/Assured Construction 32

SECTION 15.(I) G - PROCEDURE 32
Subsection 1. Required Submission of Impact Study 32
(A) When submitted 32

(B) Review by County Engineer 33
(C) No Study Needed 33
Subsection 2. Review of Traffic Impact Study 33
(A) County Engineer Review 33
(B) Municipal Review 34
(C) Prohibitions 34
(D) Appeals 34

SECTION 15.(I) H - ENTITLEMENT 34
Subsection 1. Generally 34
Subsection 2. Unincorporated Area 35
Subsection 3. Incorporated Area 35
Subsection 4. Discretion of Board 35

SECTION 15.(I) I - APPEALS 35
Subsection 1. Board 35
Subsection 2. Request/Notice 36
Subsection 3. Hearing 36
(A) Burden of Proof 36
(B) Reimbursement 36
(C) Quorum 36
(D) Decision 36
Subsection 4. Appeal from Appeals Board 36
Subsection 5. No Impairments of Judicial Rights or Remedies 36

SECTION 15.(I) J - AFFORDABLE HOUSING 36
Subsection 1. Applicability 36
(A) Applicability 36
(B) Definition 37
Subsection 2. Eligibility 37
Subsection 3. Application Review of Special Methodologies Projects 37
(A) Submittal 37
(B) Review 38
Subsection 4. Approval 39
Subsection 5. Municipal and Department Coordination 39

SECTION 15.(I) K - CONSTRAINED FACILITIES 40
Subsection 1. Purpose/Intent 40
Subsection 2. Procedure 40
(A) General 40
(B) Applications 40
(C) Preapplication conference 41
(D) Sufficiency Review/Recommendation 41
Subsection 3. Determination Criteria 41
Subsection 4. Determination 42
Subsection 5. Application to Modify or Eliminate Adopted Link or Intersection 43
(A) Who may apply 43

(B) Contents 43
(C) Criteria 43
(D) Procedure/extraordinary vote 44

SECTION 15.(I) L - COASTAL RESIDENTIAL EXCEPTION 44
Subsection 1. Intent 44
Subsection 2. Creation 45
Subsection 3. Traffic Impact Study Information 45
Subsection 4. Municipal Levels of Service 45

SECTION 15.(I) M - TRANSPORTATION CONCURRENCY MANAGEMENT AREAS (TCMA) . . 45
Subsection 1. Intent 45
Subsection 2. Criteria 46
Subsection 3. Designation of an Interim Transportation Concurrency Management Area within the Unincorporated Area 46
(A) Authority 46
(B) Duration 46
(C) Limits 46
Subsection 4. Designation of an Interim Transportation Concurrency Management Area within Municipalities 47
(A) Criteria 47
(B) Petition 47
(C) Determination 47
(D) Compliance 48
(E) Duration 48
(F) Conditions 48

SECTION 15.(II) FIVE YEAR ROAD PROGRAM 48
A - INTENT 48

SECTION 15.(II) B - DESCRIPTION OF FIVE-YEAR ROAD PROGRAM 48

SECTION 15.(II) C - MONITORING OF COUNTY'S ADHERENCE TO AND IMPLEMENTATION OF THE ADOPTED FIVE-YEAR ROAD PROGRAM 49
Subsection 1. Generally 49
Subsection 2. Independent Five-Year Road Program Oversight and Advisory Council 49
(A) Council 49
(B) Purpose and Functions 49
(C) Activities 50
(D) Administration 50
(E) Reports 50
Subsection 3. Review of the Independent Five-Year Road Program Oversight and Advisory Council 50

SECTION 15.(II) D - MODIFICATION OF FIVE-YEAR ROAD PROGRAM 51
Subsection 1. Semi-annual Modification of Five-Year Road Program 51
Subsection 2. Finding Required Prior to Deleting Projects in the Adopted Five-Year Road

Program 51

SECTION 15.(II) E - STANDARDS REQUIRING FINDING THAT COUNTY IS ADHERING TO AND IMPLEMENTING ITS ADOPTED FIVE-YEAR ROAD PROGRAM 51
(A) Funding 51
(B) New Fifth Year 51
(C) Projects on Schedule 51

SECTION 15.(II) F - EFFECT OF FAILURE OF COUNTY TO ADHERE TO AND IMPLEMENT ITS ADOPTED FIVE-YEAR ROAD PROGRAM 52

SECTION 15.(II) G - METHOD OF PRIORITIZING THOROUGHFARE IMPROVEMENTS 52

ARTICLE 15 TRAFFIC PERFORMANCE STANDARDS

SECTION 15(I) A - INTENT AND AUTHORITY.

INTENT. The Board of County Commissioners finds that safe, convenient, and orderly flow of vehicular traffic is necessary for the health, safety, welfare, and convenience of the public. It is the intent of this Section to ensure that roadways are in place and adequate to provide a LEVEL OF SERVICE that will provide safe, convenient, and orderly traffic flow.

It is the intent of this Section to implement the goals, objectives, policies, and standards of the 1989 Palm Beach County Comprehensive Plan by amending and readopting the Countywide Traffic Performance Standards Ordinance No. 90-40.

The Board of County Commissioners finds that the safe, convenient, and orderly flow of traffic will be achieved by the standards set forth herein.

Nothing in this Section shall preclude the Board of County Commissioners or other authority with the responsibility of issuing DEVELOPMENT ORDERS from considering traffic, roadway, or PROJECT conditions not specifically required by this Section or which are peculiar to the location, size, configuration, use, or relationship to the area of the PROPOSED PROJECT or the PROPOSED PROJECT itself; and to impose conditions necessary to serve the public interest.

AUTHORITY. The Board of County Commissioners has the authority to adopt this Section pursuant to Article VII, Section 1(g) and to Article VIII, Sec. 1, Fla. Const., the Palm Beach County Charter, Sec. 125.01 et. seq., Fla. Stat., and Sections 16.161 and 16.202 et. seq., Fla. Stat., and Florida Administrative Code Rule 9-J5.

SECTION 15(I) B - DEFINITIONS.

Subsection 1. Other Definitions.

A. For purposes of this Section, except as specifically provided herein or unless the context clearly indicates otherwise, the terms defined in the Unified Land Development Code of Palm Beach County, Florida, and the Plan shall have the meaning therein. In the event of a conflict between the Unified Land Development Code and the Plan, the Plan shall prevail. The capitalization of defined terms herein is for the reader's convenience only. Failure to capitalize shall not be construed as an intent not to use the term in its defined meaning.

Subsection 2. Terms Herein.

B. The following terms shall have the meanings set forth below, unless the context clearly indicates otherwise.

1985 MANUAL - the Highway Capacity Manual, 1985, as published by the Transportation Research Board.

ADOPTED LEVEL OF SERVICE - Generally Level of Service D; however, it may be another Level of Service set by the Plan or pursuant to Policies of the Traffic Circulation Element. It need not be a whole letter range, it may be a portion of a letter range. (See: eg., Level of Service D, Level of Service E)

ADOPTED PEAK HOUR, PEAK SEASON, PEAK DIRECTION LEVEL OF SERVICE - (Alternate Test 1) - Except as otherwise specifically provided Level of Service D using the FDOT MANUAL on a directional Peak Hour, Peak Season basis. In specific circumstances, such as Transportation, Concurrency, Management Areas other plan amendments, or Constrained Facilities, it may be a lower level of service as set by an Ordinance amending the Plan.

ADOPTED PEAK HOUR LEVEL OF SERVICE - generally Level of Service D; however, it may be another Level of Service set by the Plan or pursuant to Policies of the Traffic Circulation Element. It need not be a whole letter range, it may be a portion of a letter range. (eg., Level of Service D, Level of Service E).

AGREEMENT - a Development Agreement, public facilities agreement, or other binding agreement entered into between the applicant and Palm Beach County or other service provider for the purpose of assuring compliance with the adopted level of service standards. The form of the Agreement may include, but not be limited to a Development Agreement pursuant to Section 16.220, Florida Statutes.

APPLICANT - Person seeking a SITE SPECIFIC DEVELOPMENT ORDER. In the unincorporated area, it consists of those Development Orders for which a Concurrency Certificate or Concurrency Exemption Determination is required.

ASSURED CONSTRUCTION - Road Construction Improvements scheduled to be made to the Major Thoroughfare system by one or more of the following means:

(A) Inclusion in the adopted Five-Year County Road Program for commencement of construction; provided any anticipated non-public funds are secured by Performance Security;

(B) Inclusion in the adopted Five-Year State Department of Transportation Work Program for commencement of construction;

(C) Major Intersection or LINK improvement for which a contract for construction which is secured by PERFORMANCE SECURITY has been executed and which, by its terms, requires that construction be completed within six (6) years;

(D) Major Intersection or LINK improvement which will be constructed pursuant to an AGREEMENT; and which, by its terms, requires that construction be completed within six (6) years;

(E) Major Intersection or LINK improvements which is required to be constructed pursuant to a condition of a DEVELOPMENT ORDER which by its terms requires that it be completed within six (6) years and which has been secured by PERFORMANCE SECURITY;

(F) Specific inclusion in the capital improvements element of a municipal comprehensive plan for commencement of construction within five (5) years provided: (1) the improvements are financially feasible, based on currently available public revenue sources adequate to complete the improvement; and (2) a comprehensive plan amendment would be required to eliminate, defer, or delay construction; or

(G) For purposes of a Concurrency Certificate for a SITE SPECIFIC DEVELOPMENT ORDER only, a Major Intersection or LINK that the APPLICANT agrees to construct and guarantee through a condition of approval, or AGREEMENT, said construction to be completed prior to issuance of the certificate(s) of occupancy which are phased to the improvement(s) and to be secured by PERFORMANCE SECURITY within six (6) months of issuance of the SITE SPECIFIC DEVELOPMENT ORDER. No further DEVELOPMENT ORDERS for the PROJECT shall be issued if PERFORMANCE SECURITY is not timely posted.

AVERAGE ANNUAL DAILY TRAFFIC - The average of two twenty-four (24) hour weekday traffic counts taken at one location, with one count being taken in the PEAK SEASON and the other in the OFF-PEAK SEASON. The Traffic Volume Map of the Metropolitan Planning Organization (MPO) shall normally be used to determine existing AADT for the West Palm Beach Urban Study Area. However, in all cases, where newer data are available from the Florida Department of Transportation or Palm Beach County, such newer data shall be used. Any person may provide a traffic count or counts which may be used, subject to the prior approval of the COUNTY ENGINEER for count location and adjustment factors based upon accepted traffic engineering principles, instead of the counts used in creating the Traffic Volume Map(s) or where such counts are not available. The AVERAGE ANNUAL DAILY TRAFFIC established by the counts of Palm Beach County shall not include Friday counts after eight o'clock AM. (See Section 15.(I)E, §2)(B)(5); "Traffic Impact Studies, Traffic Impact Study, Methodology, Existing Traffic."

BACKGROUND PEAK HOUR PEAK SEASON TRAFFIC - The projected traffic generation from previously approved but incomplete PROJECTS, and other sources of traffic growth, as described in Section 15.(I) E, Subsection 2(B)(8); "Traffic Impact Studies, Traffic Impact Study, Methodology, Background Traffic" which occurs during the Peak Season, Peak Hours to be studied.

BACKGROUND TRAFFIC - The projected traffic generation from previously approved but incomplete PROJECTS, and other sources of traffic growth, as described in Section 15.(I) E, Subsection 2(B)(8); "Traffic Impact Studies, Traffic Impact Study, Methodology, Background Traffic".

BUILDING PERMIT - A DEVELOPMENT ORDER under §16.164, Florida Statutes issued under the Standard Building Code by the Building Division of Planning, Zoning and Building in the unincorporated area or similar department in a municipality authorizing the construction of a structure.

BUILDOUT PERIOD - The anticipated time between the issuance of the SPECIFIED DEVELOPMENT ORDER and completion of a PROPOSED PROJECT as approved by the COUNTY ENGINEER in accordance with the standards set forth in Section 15.(I) E, §2(B)(4); "Traffic Impact Studies, Traffic Impact Study, Methodology, Projected Buildout Period"; of this Section. Completion of a PROJECT shall mean the issuance of the final certificates of occupancy for buildings in a PROJECT. In the case of a commercial PROJECT, final certification of occupancy for interior tenant improvements for eighty percent (80%) of the gross leasable area shall be the completion of the PROPOSED PROJECT for purposes of this Section.

COMPLETE APPLICATION - An application filed with the Local Government which satisfied all application requirements of state law; and the relevant land development regulations, the general rules and policies adopted, and the customary general practices of the Local Government.

CONCURRENCY CERTIFICATE - in the unincorporated area, a Certificate of Concurrency Reservation, Adequate Public Facilities Determination, or Conditional Certificate of Concurrency Reservation, as defined in Section 15.(I) A; or similar confirmation in a Municipality.

CONCURRENCY EXEMPTION DETERMINATION - a determination that the property in the Unincorporated Area is exempt from the concurrency requirements of the Plan pursuant to the Concurrency Exemption Ordinance, Ordinance No. 89-5, as amended.

CONSTRAINED FACILITY - a Link which is widened (or assumed to be widened under Test 2) to its adopted width as determined by the Board of County Commissioners (BCC) as part of the Thoroughfare Right of Way Protection Map.

COUNTY ADMINISTRATOR - The Palm Beach County Administrator or designee.

COUNTY ENGINEER - The Palm Beach County Engineer or designee.

CRALLS - Constrained roadway at a lower Level of Service - a Major Thoroughfare on which a lower Level of Service is set pursuant to Section 15.(I) L, herein.

CRITICAL VOLUMES - The sum of all movements in a intersection which conflict with one or more other movements as established pursuant to the Transportation Research Board, Special Report 209, Highway Capacity Manual (1985), "Capacity Analysis", pages 9-21 and 9-22. (See Level of Service D and E definitions)

DETAILED ANALYSIS - An analysis of the signalized Major Intersections at each end of all Links on which Peak Hour Total Traffic does not exceed the Adopted Peak Hour Level of Service during the Buildout Period of the Proposed Project using the Critical Volumes methodology. If the Major Intersection(s) on the end of the Link is(are) not signalized, the County Engineer may require the Detailed Analysis include an alternate signalized intersection within the Link based upon generally accepted traffic engineering principles.

DEVELOPMENT - as defined in §380.04, Florida Statutes, except that it shall not include the following items listed therein the: (1) demolition of a structure except as an adjunct of construction; (2) clearing of land except as an adjunct of construction; and (3) deposit of refuse, solid or liquid waste, or fill on a Lot unless the Site Specific Development Order is specifically for such as the end use and not as an adjunct to the end use.

DEVELOPMENT ORDER - As defined in Sec. 163.3164, Fla. Stat.

DIRECTLY ACCESSED - The paved LINK(s) that serve as the PROJECT'S immediate and direct access or means of ingress and egress. Each access point of a PROJECT shall be considered to have access to at least one LINK provided that the access points of a PROJECT may be considered to share a common LINK. If a given access point is not immediately connected to a DIRECTLY ASSESSED LINK, the first LINK or LINKS connected shall be LINKS(S) for purposes of this Section. If a PROJECT access point is connected to more than one LINK, PROJECT TRIPS shall be assigned to the LINKS, and LINKS shall be determined to be directly accessed, in accordance with accepted traffic engineering principles.

EXECUTIVE DIRECTOR - The EXECUTIVE DIRECTOR of the Palm Beach County Planning, Zoning and Building Department, or designee.

EXISTING TRAFFIC - Average annual daily traffic counted.

EXISTING PEAK HOUR PEAK SEASON, PEAK DIRECTION TRAFFIC - Directional traffic counted during the Peak Hours, Peak Season.

FIRST DEVELOPMENT ORDER - SITE SPECIFIC DEVELOPMENT ORDER.

GOPs - The goals, objectives, and policies of a local government's comprehensive plan.

GROSS TRIPS - Project Trips plus internal trips.

HISTORICAL TRAFFIC GROWTH TABLE - A table prepared by the COUNTY ENGINEER showing the preceding three (3) year's increase or decrease in AVERAGE ANNUAL DAILY TRAFFIC on various LINKS, based upon traffic counts and which provide the information to be used in projecting the BACKGROUND TRAFFIC during the BUILDOUT PERIOD of the PROPOSED PROJECT.

INCORPORATED AREA - those areas of Palm Beach County that are incorporated in a Municipality pursuant to Florida law.

INTERNAL TRIPS - Trips from a Proposed Project that do not exit the Project or enter the Major Thoroughfare system.

LEVEL OF SERVICE - The measure of the functional and operational characteristics of a roadway based upon traffic volume in relation to road capacity.

LEVEL OF SERVICE D - As to Average Annual Daily Traffic and Peak Hour Traffic on a Link, the numbers set forth in Table 1A; as to Peak Hour, Peak Season, Peak Direction Traffic on a Link, the numbers set forth i Table 1C LOS D column and as to Peak Hour Traffic at an intersection, a CRITICAL VOLUME of one thousand four hundred (1,400).

LEVEL OF SERVICE E - As to Average Annual Daily Traffic and Peak Hour Traffic on a Link the numbers set forth in Table 1B, the numbers set forth in Table 1C LOS E column as to Peak Hour on a Link; and a Critical Volume of one thousand five hundred (1,500) as to Peak Hour Traffic on an Intersection.

LINK - The portion of a Major Thoroughfare between two Major Intersections.

LOCAL GOVERNMENT - Palm Beach County, Florida, and the Municipalities located therein.

LOCAL GOVERNMENT PLAN - the comprehensive plan of the Local Government adopted pursuant to Part II of Chapter 163, Fla. Stat.

MAJOR INTERSECTION - The juncture of two or more MAJOR THOROUGHFARES.

MAJOR PROJECT - Any PROJECT, including those within municipalities, which is:

(A) A Development of Regional Impact; or

(B) A PROJECT which generates more than seven thousand (7,000) Net Trips; or

(C) Any PROJECT of any type or size which is contractually or by condition of approval bound to financing or constructing any portion of a Major Thoroughfare which is not site related.

MAJOR PROJECT TABLE - A table or tables (or map) prepared by the County Engineer indicating the location of all MAJOR PROJECTS in Palm Beach County.

MAJOR THOROUGHFARES - MAJOR THOROUGHFARES are:

(A) All streets as defined in the Thoroughfare Right-of-Way Identification Map, Maps 5A and 5B of the Plan as it may be amended from time to time;

(B) All roadways that function as major thoroughfares as determined by the COUNTY ENGINEER in accordance with accepted Traffic Engineering principles;

(C) All proposed and approved roads that would, if built, function as arterials and major collectors during the BUILDOUT PERIOD of the PROPOSED PROJECT as determined by the COUNTY ENGINEER in accordance with accepted Traffic Engineering principles.

(D) As to Municipal SITE SPECIFIC DEVELOPMENT ORDERS, it shall not include roads which are the responsibility of any Municipality pursuant to functional classification under Chapter 335, Fla. Stat.

MODEL - The Florida Standard Urban Transportation Modeling Structure, using socioeconomic data to assign trips between traffic analysis zones on the Major Thoroughfare system on a daily basis as adjusted/validated in accordance with generally accepted traffic engineering principles to more closely match Palm Beach County conditions. The daily number established by the Model process shall be treated as the Average Annual Daily Traffic for purposes of Test 2.

MODEL RADIUS OF DEVELOPMENT INFLUENCE - the radius of development influence used in the model test as set forth in Table 2B. The distance shall be measured in road miles from the point at which the Proposed Project's traffic enters the first Link, not as a geometric radius.

MODEL TABLE - the table or map of the Major Thoroughfares maintained by the office of the Metropolitan Planning Organization showing Model Traffic.

MODEL TRAFFIC - the anticipated traffic assigned by the Model on the future Major Thoroughfare system resulting from all approved (both built and unbuilt) Projects, expressed in terms of Average Annual Daily Traffic, as adjusted in accordance with generally accepted traffic engineering principles to more closely match Palm Beach County conditions.

MODEL PLAN - the 2010 Interim Transportation System Plan, as modified by Table 3 of the Traffic Circulation Element of the Plan.

MUNICIPAL ENGINEER - A Professional Engineer practicing traffic engineering employed or retained by the Municipality.

MUNICIPAL OFFICIAL - The public official responsible for coordinating the application of this Section in the Municipality, it may be the Municipal Engineer.

NET PEAK HOUR TRIPS - Net trips generated during the Peak Hours.

NET TRIPS - Project trips minus Pass-by Trips and the Previous-Approval Traffic or traffic from the Existing Use established in accordance with Section 15.(I) C (2).

OFF-PEAK SEASON - The time from June 1 through August 1, inclusive.

PASS-BY TRIPS - Trips generated by a PROPOSED PROJECT which are passing trips already on the road LINK on which the PROPOSED PROJECT is located.

PEAK HOURS - as established pursuant to Section 15.(I) E (3),

PEAK HOUR TRAFFIC - PEAK HOUR TRAFFIC shall be determined by factoring the AVERAGE ANNUAL DAILY TRAFFIC by a "K" factor of 9.1%.

PEAK HOUR, PEAK SEASON, PEAK DIRECTION TRAFFIC - The PEAK SEASON PEAK HOUR directional Link volumes.

PEAK SEASON - The time from January 1 through March 31, inclusive.

PERFORMANCE SECURITY - Sufficient funds over which the County has control irrevocably committed by written instrument to secure complete performance of a contract or condition of a DEVELOPMENT ORDER, a ROAD AGREEMENT or other AGREEMENT in the form set forth by County policy or (as approved by the County Attorney) of a:

(A) Letter of Credit;
(B) Escrow Agreement;
(C) Surety Bond;
(D) Cash Bond; or
(E) Any other method of comparable security as (A)-(D) approved by the County Attorney.

PLAN - the 1989 Comprehensive Plan of Palm Beach County, Florida, as amended.

PREVIOUS APPROVAL, PREVIOUSLY ISSUED DEVELOPMENT ORDER, PREVIOUSLY APPROVED DEVELOPMENT ORDER - a Site Specific DEVELOPMENT ORDER which:

(A) in the unincorporated area, received a Concurrency Exemption Determination based on a Development Order for which completed application was made prior to or on May 21, 1987. It does not include an amendment or amendments to a Previous Approval applied for after May 21, 1987; and

(B) in the incorporated area is a Valid SITE SPECIFIC DEVELOPMENT ORDER formally approved by a municipality: (1) for which a complete application was made to, and accepted by, a Municipality, prior to February 1, 1990; or (2) in the case of a Development of Regional Impact, a Development of Regional Impact which received a report and recommendation by the Treasure Coast Regional Planning Council prior to February 1, 1990, all pursuant to formally established procedures pursuant to the Municipality's land development regulations. It does not include applications for Site Specific Development Orders on a lot subject to an Interlocal Agreement entered by the municipality and the County, after May 21, 1987, as a result of an annexation where the agreement requires compliance with traffic performance standards. A determination of a Previous Approval in Incorporated Areas shall

be in accordance with Section 15.(I) C Subsection 5. It does not include an amendment or amendments to a Previous Approval applied for on or after February 1, 1990.

In both the Unincorporated Area and Incorporated Area for Projects approved after the dates above, it shall include a Project which has been completely built for more than five (5) years. Completely built shall mean certificates of occupancy have been issued for all residential units set forth on the master plan or site plan and the total non-residential square footage is constructed as set forth on the master plan or site plan.

PREVIOUS-APPROVAL TRAFFIC - Project Traffic resulting from units or square footage of a Previous Approval established pursuant to Section 15.(I) C Subsection 2 of this Section.

PRO FORMA TRAFFIC-The anticipated traffic generation of the particular land use which shall be calculated as defined in PROJECT TRAFFIC/PROJECT TRIPS. Where the published rates are not appropriate for the proposed project generating traffic, it may be established by actual counts of three (3) land uses substantially similar in all material respects to the land use under consideration as approved by the County Engineer. It is not based on the actual count of the traffic from the Project under consideration, except the County Engineer shall allow such counts to be used as one of the three (3) counts unless the land use under consideration is not representative of that land use generally by reason of low or high occupancy rate, unusually unsuccessful or successful businesses, an unusual tenant as to trip generation, or the like. Project Traffic, Peak Hour Project Traffic, Net Trips, Net Peak Hour Trips, existing use traffic, Pass-by Trips, and distribution of traffic on the Major Thoroughfare system shall be on a PRO FORMA BASIS.

PROJECT - A land use or group of land uses, or land development activity or activities, or amendment thereto, which require the issuance of a DEVELOPMENT ORDER(s).

(A) For purposes of this Section, the following criteria shall be used to establish whether a particular land use or group of land uses, or land development activity or activities constitutes a single PROJECT subject to the standards of this Section:

(1) Whether the subject property is contiguous to another parcel or parcels owned by the same person. Parcels separated by a right-of-way for an expressway, or a public canal easement or canal right-of-way more than one hundred forty feet (140') wide, shall not be considered contiguous unless a single application for a SITE SPECIFIC DEVELOPMENT ORDER covering such parcels is submitted by an APPLICANT.

(2) Whether the contiguous parcels are subject to a unified plan of development in one or more of the following ways:

(a) A unified plan of development shall be deemed to exist where the property proposed for development is or will be subject to a permit which also applies to contiguous parcels; such as, but not exclusive to, a surface water management permit from the South Florida Water Management District. If the permit covers some but not all contiguous parcels, those contiguous parcels covered by the permit shall be considered a single PROJECT; or

(b) Shared facilities, such as, but not exclusive to, driveways, parking lots, drainage, recreational facilities, open space, or cable television shall indicate a single PROJECT to the extent those properties share facilities; or

(c) Condominium documents or other property owner's association documents covering the contiguous parcels or portion thereof, shall indicate a single PROJECT; or

(d) A common architectural theme for various buildings shall indicate a unified plan of development.

(B) Affiliated corporations, partnerships, or other business entities shall be deemed to be the same person. Affiliation shall exist where the same principals own a majority of the interest in the subject business entities.

(C) Applicants shall submit documentation evidencing ownership of other property within five hundred feet (500'). This documentation shall be in a form approved by the County.

(D) Nothing herein shall prevent the development of a portion of a parcel owned by one person where no unified plan of development for the remainder of the parcel, or portion thereof, is evidenced.

PROJECT TO PROVIDE AFFORDABLE HOUSING - a Project eligible for the special applicability in Section 15.(I) J, Affordable Housing, pursuant to either:

(A) Board of County Commissioner's determination, upon the recommendation of the Commission on Affordable Housing, both based upon the criteria developed by the Commission on Affordable Housing and adopted by ordinance of the Board of County Commissioners; or **(B)** Section 15.(I) J, Affordable Housing, Subsection 2, Applicability, of this Section.

PROJECT TRAFFIC/PROJECT TRIPS - The number of trips generated by the PROPOSED PROJECT (this includes reductions for internal trips). In the event no specific use, size, or density is proposed, the maximum Trips possible under the SITE SPECIFIC DEVELOPMENT ORDER shall be Project Traffic. Project traffic shall be generated using the "Official Daily Trip Generation Rate" Table 10.8-1 of Article 10 Impact Fees. If the appropriate rate is not provided in this table, then latest edition of Trip Generation published by the Institute of Transportation Engineers shall be used to determine the trip generation rate.

PROPOSED PROJECT - A PROJECT for which an APPLICANT seeks the issuance of a DEVELOPMENT ORDER(s).

QUASI-PUBLIC - A land use or group of land uses open for general public use, such as stadiums, amphitheaters, civic centers, and colleges. It does not include shopping centers or other retail uses, and hotels.

RADIUS OF DEVELOPMENT INFLUENCE - The area surrounding a PROPOSED PROJECT as set forth in Table 2A herein. The distance shall be measured in road miles from the point at which the PROPOSED PROJECT's traffic enters the first LINK, or LINKS connected, not as a geometric radius.

ROAD AGREEMENT - An agreement of which the Board of County Commissioners is a party that assures construction of a major intersection(s) or LINK(s). It may, among other things, be necessary to ensure compliance with this Section and may involve commitments of, and restrictions on, the subject property. All requirements of the agreement not the responsibility of a governmental entity must be secured by PERFORMANCE SECURITY and any requirement of a non-governmental entity not so secured shall not be considered part of the agreement for purposes of determining whether the work qualifies as ASSURED CONSTRUCTION. It includes, but is not limited to, Development Agreements as defined in Article 12 of the Unified Land Development Code.

SITE SPECIFIC DEVELOPMENT ORDER - a Development Order issued by a Local Government which establishes the density or intensity, or maximum density or intensity, or use, group of uses, or permitted uses and which approves a specific plan of Development on a lot or lots pursuant to an application by or on behalf of an Owner or contract purchaser, including applications initiated by a Local Government. It may apply to a lot or lots under single ownership or a group of lots under separate ownership. It shall not include general rezoning/district boundary changes initiated by the Local Government which do not involve a particular development concept, except "downzonings" under Section 15.(I) D of the Unified Land Development Code. It includes those Development Orders referenced in policies 2-g and 2-h of the Plan in the Capital Improvements Element, including amendments thereto. It shall apply to all parcels or lots in their entirety taken together of any SUBDIVISION. It includes site specific rezonings, special exceptions, conditional uses, special permits, master plan approvals, site plan approvals, plat approvals, and building permits. It may or may not authorize the actual commencement of development. Two

(2) or more Development Orders which individually do not constitute a SITE SPECIFIC DEVELOPMENT ORDER shall be considered a SITE SPECIFIC DEVELOPMENT ORDER if when taken together they meet the definition of SITE SPECIFIC DEVELOPMENT ORDER.

STANDARDS OF THIS SECTION - The requirements that Site Specific Development Orders satisfy the Levels of Service provisions of this Section.

SUBDIVISION - As defined in Article 8 of the Unified Land Development Code of Palm Beach County, Florida as to the unincorporated area, and as defined in the Municipal Land Development Regulations in the Municipality.

TABLE 3 - Table 1 of the Traffic Circulation Element of the Plan, "Projected Network Deficiencies - 1988 Roadway Links Below Level of Service," and, as clearly demonstrated by current traffic counts as determined by the County Engineer, those Major Thoroughfares that would have been added to the "Projected Network Deficiencies - 1988 Roadway Links Below Level of Service" had then-current traffic counts been available. It shall also include those Links that were not included in the "Projected Network Deficiencies - 1988 Roadway Links Below Level of Service" through a scrivener's error.

TABLE 5 - "Projected Network Deficiencies - Model Plan Roadway Links Below Generally Adopted Level of Service," as updated periodically by the County Engineer.

TABLE 6 - The changes made to the 2010 Interim Transportation System Plan to produce the Model Plan established pursuant to, Section 15.(I) F,(3).

THOROUGHFARE RIGHT OF WAY IDENTIFICATION MAP or PLAN -as described in the Traffic Circulation Element of the Plan, III; Existing Conditions; D; Thoroughfare Right of Way Identification Map.

THROUGH-INTERSECTION CONTINUITY - At least one (1) left turn lane at the intersection and the same number of through lanes as on the Link for at least 3120' beyond the Major Intersection, including transition in accordance with Florida Department of Transportation Standards.

TOTAL PEAK HOUR, PEAK SEASON, PEAK DIRECTION TRAFFIC - the sum of:

(1) Existing Peak Hour, Peak Season, Peak Direction Traffic,
(2) NET PEAK HOUR TRIPS,
(3) BACKGROUND PEAK HOUR, PEAK SEASON, PEAK DIRECTION TRAFFIC.

TOTAL MODEL TRAFFIC - Model Traffic, as established by the most recent run of the Model including the most recent data and calibration, as adjusted/validated in accordance with generally accepted traffic engineering principles to more closely match Palm Beach County conditions.

TOTAL TRAFFIC - the sum of:

(1) EXISTING TRAFFIC
(2) NET TRIPS
(3) BACKGROUND TRAFFIC

TRAFFIC IMPACT STUDY - A traffic study of LINKS and intersections within the RADIUS OF DEVELOPMENT INFLUENCE and Model Radius of Development Influence of a proposed PROJECT; and including the information, and prepared in accordance with the requirements, set forth in Section 15.(I) E. For the Traffic Circulation Element of the Plan, it is the "Level of Service Impact Statement" referred to in the Capital Improvement Element of the Plan.

TRAFFIC PERFORMANCE STANDARDS APPEALS BOARD - The administrative appeals board with the authority and responsibility to hear appeals from the decision of the County Engineer or Municipal Engineer as to traffic engineering issues.

TRAFFIC VOLUME MAP - The map of the Major Thoroughfares produced and maintained jointly by the office of the Metropolitan Planning Organization and County Engineer showing Average Annual Daily Traffic.

TRIP GENERATION - means the attraction or production of trips caused by a given type of land development. The generation rates shall be as presented in Table 10.8-1. If the appropriate rate is not provided in this table, then the latest edition of Trip Generation published by the Institute of Transportation Engineers shall be used to determine the trip generation rate.

VALID - A SITE SPECIFIC DEVELOPMENT ORDER which: was issued by a Local Government: (1) in accordance with proper procedure and in compliance with state law, and the land development regulations and codes, administrative rules and procedures, and general policies of Local Governments, and the requirements of all other agencies; (2) not by mistake; and (3) which has not expired, lapsed, or been abandoned, revoked, or canceled by operation of law, or by the Local Government or pursuant to the Local Government land development regulations or codes, rules, or policies.

VOLUME-TO-CAPACITY (V/C) RATIO - the ratio of the volume of traffic on a Major Thoroughfare Link to the capacity of that Link as set forth in Table One.
[Ord. No. 93-4] [Ord. No. 94-23]

SECTION 15.(I) C - APPLICABILITY.

Subsection 1. Generally

(A) Unless otherwise provided herein, this Section shall apply to all SITE-SPECIFIC DEVELOPMENT ORDERS or any other official action of a Local Government having the effect of permitting the Development of land.

(B) Applicability to Incorporated Areas. The Palm Beach County Charter provides authorization to the County Commission to adopt this Section for roads which are "not the responsibility of any municipality." The responsibility of roads between various jurisdictions results from functional classification under Chapter 5, Florida Statutes. This system of functional classification does not match the major thoroughfare system identified in the Plan as to every Link. The major thoroughfare system identified in the Plan includes some roads which are the responsibility of a Municipality. Therefore, the Charter precludes the applicability of this Section to roads that, while being on the Major Thoroughfare system, are the responsibility of a Municipality. Accordingly, in the case of setting the level of service this Section shall not apply so as to restrict the issuance by Municipalities of Development Orders adding traffic to roads which are the responsibility of a Municipality.

Subsection 2. Previously-approved Development Orders

(A) Amendments to Site Specific Development Order - Any application for a SITE SPECIFIC DEVELOPMENT ORDER amending a Site Specific Development Order shall be subject to this Section. The proposed Project Traffic which exceeds Previous-Approval Traffic on the Major Thoroughfare system (including increases resulting from a redistribution of Project Traffic) shall meet standards of this Section. Previous-Approval Traffic shall be established as follows:

(1) Only Project Traffic from units or square footage which received a SITE SPECIFIC DEVELOPMENT ORDER for which complete application was made on or before May 21, 1987 in the unincorporated area shall be Previous-Approval Traffic. Project Traffic from units or square footage for which complete application was made after May 21, 1987 shall not be Previous-Approval Traffic. Traffic associated with units or square footage removed through master or site plan amendment shall be deducted from the originally approved project traffic in establishing Previous Approval Traffic.

(2) Only Project Traffic from units or square footage which received a SITE SPECIFIC DEVELOPMENT ORDER in the incorporated area for which Complete Application was made prior to February 1, 1990 and which has been determined by the Municipality to be a Previous Approval in accordance with Subsection 5 of this Section 15.(I) C shall be Previous-Approval Traffic. Units or square footage lost by applicability of the Municipal Land Development Regulations, general rules and policies adopted, and the customary general practices of the Municipality shall be deducted from the originally approved project traffic in establishing Previous-Approval Traffic.

(3) For purposes of this determination, the generation rates and capture rates of the Previous Approval shall be updated to current traffic generation and Pass-by rates, if applicable, and shall be used to calculate Previous-Approval Traffic. PROJECT TRIPS shall be studied for Test 1 and Test 2.

(4) Previous-Approval Traffic shall not include any Project Traffic from a Site Specific Development Order for which complete application was made after May 21, 1987 in the Unincorporated Area, or February 1, 1990 in the Incorporated Area, unless the Project has been completely built (See definition of Previous Approval) for more than five (5) years, in which case all Project Traffic shall be Previous Approval Traffic.

(B) Existing Use - Any application for a SITE SPECIFIC DEVELOPMENT ORDER on property on which there is an existing use shall be subject to this Section's standards to the extent the traffic generation projected for the SITE SPECIFIC DEVELOPMENT ORDER exceeds the traffic generation of the existing use, or increases traffic through a redistribution of traffic from the existing use (as determined using generation and Pass-by rates in accordance with generally accepted traffic engineering principles) on the Major Thoroughfare system. For purposes of this paragraph B, the use of a structure or land that has been discontinued or abandoned for more than five (5) years shall not be considered an existing use.

(C) Amendments to Development Orders - The proposed Project Traffic shall be compared to Previous-Approval Traffic on both an average daily basis and a Peak Hour basis. Increases in Net Peak Hour Trips must meet average peak hour part of Test 1. Increases in Net Trips must meet the Adopted Level of Service without benefit of Alternate Test 1. Increased Net Trips must meet Test 2.

(D) Amendments to Entitlement - Any amendment to the Entitlement phase of the Project shall include all Project Traffic, provided there shall be no double counting of Project Traffic. [See Section 15.(I) H]

(E) Amendments Requiring Performance Security - Any SITE SPECIFIC DEVELOPMENT ORDER amending a Previously-Approved DEVELOPMENT ORDER which required road construction, right-of-way acquisition, design, contribution of money, or other improvements to a LINK or MAJOR INTERSECTION shall require PERFORMANCE SECURITY to secure the contribution or improvements, if the road construction, right-of-way acquisition, design, contribution of money, or other improvements are still required after the amendment. Performance Security shall be submitted no later than six (6) months following issuance of the amending Site Specific Development Order. No further DEVELOPMENT ORDERS for the PROJECT shall be issued if PERFORMANCE SECURITY is not timely posted.

(F) Redistribution of Traffic - Any amendment to a Development Order which results in traffic being redistributed on the Major Thoroughfares shall be subject to the standards of this Section to the extent of any increase of Project Traffic over Previous Approval Traffic on the affected LINKS or Major intersections.

Subsection 3. Non-applicability

(A) Local Government Applications - The standards of this Section shall not apply to Local Government-initiated district boundary changes as part of an area-wide review and district boundary-change program, or any district boundary changes to conform with the Local Government Plan which does not authorize Development.

(B) Development Order Time Limit Criteria - This Section shall not apply to Palm-Beach-County initiated petitions to lower density/intensity under Development Order Time Limit Criteria in Section II of the Unified Land Development Code of Palm Beach County, Florida. Nothing herein shall preclude the review of approvals under Development Order Time Limit Criteria, for consistency with this Section.

(C) Entitlement - The standards of this Section shall not apply to SITE SPECIFIC DEVELOPMENT ORDERS not exceeding entitlement densities/intensities established in the Plan or Section 15.(I) H, Entitlement.

(D) Special Events - The standards of this Section shall not apply to SITE SPECIFIC DEVELOPMENT ORDERS issued for special events. For purposes of this Section, a special event is an activity or use which does not exceed three weeks a year, occurs no more frequently than once a year, and is public or quasi-public in nature. It includes auto races; Fourth of July activities; parades; and festivals. It does not include recurring events such as baseball games, football games, concerts, races, and the like held in stadiums, amphitheaters, or other permanent facilities even if such facilities are used for special events. Each special event shall constitute a separate special event for purposes of calculating the number of weeks of the event. If the Plan is amended to provide more stringent provisions as to this exception, the Plan shall control.

(E) Estoppel - Nothing herein shall preclude the Board of County Commissioners from determining upon the advice of the County Attorney that an estoppel exists under Florida law, being a substantial good-faith reasonable reliance on a governmental act or omission such that it will be highly inequitable to apply this Section.

(F) Subsequent or amending Development Orders.

(1) Subsequent Implementing Development Orders. The standards of this Section shall not apply to Site Specific Development Orders which are subsequent implementing Development Orders to Previously-Approved Site Specific Development Orders which were captured by this Section or Ordinance 90-6 (Traffic Performance Standards Municipal Implementation Ordinance), but which are required by Local Government as part of the Development approved under the captured or Previously-Approved Site Specific Development Order. Examples of these subsequent implementing Site Specific Development Orders are subdivision approvals and building permits issued in a planned unit development where the planned unit development is a Previous Approval or met the requirements of this Section (either directly or through the Traffic Performance Standards Municipal Implementation Ordinance).

(2) Amendments to Previously-Captured-Approvals. Amendments to Site Specific Development Orders which were captured by this Section or Ordinance 90-6 (Traffic Performance Standards Municipal Implementation Ordinance) which do not increase the captured Site Specific Development Order's Net Trips or Net Peak Hour Trips on any Link or Major Intersection (including increases resulting from redistribution) shall not be subject to the standards of this Section. For purposes of this determination, the generation rates and capture rates of the captured Site Specific Development Order shall be updated to current generation and capture rates, if applicable, and shall be used to calculate whether there is any increase. If there is an increase, Net Trips shall be subject to the Standards of this Section.

(G) Vested Rights. Notwithstanding the provisions of this Section to the contrary, the requirements of this Section shall not apply in any manner to impair vested rights established pursuant to Florida law, to the extent that any PROJECT, or portion thereof, is vested as against the requirements of this Section.

(H) Exceptions. The standards of this Section shall not apply to Site Specific Development Orders for the Coastal Residential use as set forth in Section 15.(I) L; the small one hundred percent (100%) very low and low income housing project as set forth in Section 15.(I) J, Subsection 2, Paragraph (C); and the special events, as set forth in Section 15.(I) C, Subsection D.

(I) Requirements. The exceptions to the standards of this Section (Level of Service standards) do not obviate the requirement to report the Site Specific Development Order, or provide the Traffic Impact Study (where required), to the County Engineer.

Subsection 4. Municipal Determination of Previous Approval.

(A) Validity. Only Valid First Development Orders which meet the definition of Previous Approval shall be considered Valid Previous Approvals.

(B) Procedures. The Municipality shall establish procedures for determining what Previous Approvals have been granted. The procedures shall be at the sole discretion of the Municipality. The Municipality shall send its determination as to each Previous Approval to the Traffic Division of the County Engineer within fifteen (15) days of its determination.

(C) Timing. The County Engineer shall have ten (10) working days, exclusive of tolled days, from the receipt of the determination of the Municipality to review and determine if additional information is required.

(D) Additional information. If the County Engineer requests additional information, he shall have thirty (30) days, exclusive of tolled days, from the receipt of the additional information to notify the property owner and Municipality as to, and file, an action for judicial review.

(E) Period to file. The Municipality's determination shall not be effective, and the period to file an action shall not commence, until either: (1) the County Engineer has not requested additional information within the ten (10) day period or, (2) if additional information is requested, the County Engineer has received all additional information requested.

(F) Delivery. The documents sent pursuant to paragraphs B and D shall be sent certified mail, return receipt requested, or hand delivered.

(G) Appeals. The appeal or review shall be to a Court of competent jurisdiction and may be filed by any substantially affected person, including any Local Government.

(H) Limitation on County's Review/Appeal.

(1) The time frames set forth in Paragraphs C and D above as to the County are jurisdictional. Any failure on the part of the County to timely send the notification shall result in the municipality's determination being conclusive and binding.

(2) Clerical errors in long-standing otherwise Valid Site Specific Development Orders on which development commenced prior to February 1, 1990 shall not be grounds for appeal or review.

(3) Any Municipal determination that there is a Previous Approval on a Lot upon which building construction or infrastructure improvements have been made within the last three (3) years which are consistent with the Development Order considered to be the Previous Approval shall not be appealed by the County.

(4) Any Municipal determination that a Valid Site Specific Development Order (as determined by Palm Beach County) issued prior to February 1, 1990, and within three (3) years prior to February 1, 1990, is a Previous Approval and shall not be appealed by the County.

(I) Completion of previous approvals. The Municipality shall complete its review and determination of all properties within its jurisdiction as to Previous Approvals by July 1, 1991.

Subsection 5. Municipal Concurrency Management System.

A Municipality may, with the consent of the County, enter into an intergovernmental agreement with the County whereby the Municipality, by a concurrency management ordinance, implements the standards and requirements of this Section at different points in the land development approval process than those set forth in this Section. The agreement and ordinance shall ensure that all Development is subject to the standards and requirements of this Section, and that data is forwarded to the County for capacity management and review consistent with this Section. **[Ord. No. 93-4]**

SECTION 15.(I) D - STANDARD.

Subsection 1. Generally

There is hereby established a Traffic Performance Standard for all MAJOR THOROUGHFARES within Palm Beach County. Except as specifically provided in this Section, no Site Specific DEVELOPMENT ORDER shall be issued for a PROPOSED PROJECT which would violate this standard. This standard consists of two tests. The first test relates to the Buildout Period of the Project and requires that the Project not add Traffic in the Radius of Development Influence which would have Total Traffic exceeding the Adopted Level of Service. The second test relates to the modeling of traffic based upon Model Traffic. It requires that the Project address Traffic on any Link within the Model Radius of Development Influence. It requires that Total Model Traffic not exceed the Adopted Level of Service on any Link.

Subsection 2. Buildout/Model Standard

(A) LINK/Buildout test - Test 1.

(1) Criteria. Except as specifically provided in this Section, no Site Specific Development Order shall be issued which would, during the Buildout Period of the Project, add NET TRIPS at any point on any Major Thoroughfare Link within the Project's Radius of Development Influence if the Total Traffic on that Link would result in an Average Annual Daily traffic volume or Peak Hour traffic volume that exceeds the Adopted Level of Service during the Buildout Period of the Project. For purposes of this analysis, Assured Construction shall be considered.

(2) Eligibility. Notwithstanding subparagraph (1) of this paragraph (A), the LEVEL OF SERVICE D for the LINKS listed on Table 3 which have a volume to capacity ratio of greater than 1.00 therein may be exceeded by up to a total of five percent (5%) of Level of Service D as computed on an AADT basis. These roadway links eligible for the excess five percent (5%) will be presumed to pass the average peak hour test. This five percent (5%) shall be the cumulative Traffic from all Projects or Project amendments approved increasing or redistributing Traffic for which application was made on or after February 1, 1990 based upon the Traffic Impact Studies of such. This excess five percent (5%) shall be allocated on a first-come-first-served application-filed basis; provided no Project may use more than one-fifth (1/5th) of the five percent (5%) available on any LINK. The County Engineer shall maintain a map or table on which the excess five percent (5%) shall be depicted and the amount of such used. The map or table shall be updated no less frequently than quarterly.

(3) Alternate Test One.

For Links on which Test One is not met, an Applicant may elect to evaluate each Link's Peak Hours, Peak Season directional traffic volume, using the Adopted Peak Season, Peak Hour, Peak Direction Level of Service Standard. If the number of lanes is different in each direction, the number of lanes serving the direction being analyzed shall be used for purposes of determining the Peak Hour, Peak Season direction capacity. If the Peak Season, Total Peak Hour directional Traffic exceeds the Adopted Peak Season, Peak Hour, Peak Direction Level of Service during the Buildout Period of the Project, no Site Specific Development Order shall be issued unless Link improvements are made, including Through-Intersection Continuity such that Test One, or Alternate Test One, is satisfied. If the studied Peak Season, Peak Hour directional Traffic on a Link does not exceed the Adopted Peak Season, Peak Hour, Peak Direction Level of Service of the Link during the Buildout Period of the Project, the Applicant shall complete a Detailed Analysis. Test 1 shall be satisfied if the Detailed Analysis demonstrates that the Critical Volume for the

analyzed signalized intersections, during the Peak Hour in the Peak Season, is less than or equal to the Adopted Level of Service for intersections. The Applicant may make intersection improvements to achieve the Adopted Level of Service Critical Volume, in accordance with Palm Beach County or Florida Department of Transportation Design Standards.

(B) Model test/Test 2.

(1) (a) Except as specifically provided in this Section, no Site Specific Development Order shall be issued which would add NET TRIPS to any Link within the Project's Model Radius Development Influence if the Total Model Traffic on that Link would result in an Average Annual Traffic volume, as determined by the Model, that exceeds the Adopted Level of Service. For purposes of this analysis, the construction contemplated in the Model Plan shall be the basis.

(b) For proposed Projects generating more than seven thousand (7,000) Net Trips, except as specifically provided in this Section, no Site Specific Development Orders shall be issued which would add Net Trips to any Link within the Project's Model Radius of Development Influence if the Total Model Traffic (by utilization of the Model to assign Net Trips) on that Link would result in an Average Annual Traffic volume, as determined by the Model, that exceeds the Adopted Level of Service. For purposes of this analysis, the construction contemplated in the Model Plan shall be the basis.

(2) Notwithstanding subparagraph (1) of this paragraph (B), the LEVEL OF SERVICE D FOR THE LINKS listed on Table 5, may be exceeded by up to a total of five percent (5%) of Level of Service D. This five percent (5%) shall be the cumulative Traffic from all Projects or Project amendments approved increasing or redistributing Traffic for which application was made on or after February 1, 1990 based upon the Model run, including the socio-economic data from such Development. This excess five percent (5%) shall be allocated on a first-come-first-served application-filed basis; provided no Project may use more than three-fifths (3/5ths) of the five percent (5%) available on any other LINK based upon the Project's Traffic Impact Study. Notwithstanding the three percent (3%) limitation as stated at the bottom of Table 2B, net project trips within the maximum Radius of Development Influence shall be accumulated toward the five percent (5%) allocation. The County Engineer shall maintain a map or table on which the excess five percent (5%) shall be depicted and the amount of such used. The map or table shall be updated no less frequently than the Model. Links shall be added to Table 5 as their volume-to-capacity ratio exceeds 1.00 resulting from the Model update, using the Model Plan. At such time, these Links shall be eligible for the additional five percent (5%) under Test 2. Table 5 may be updated by resolution of the County Engineer.

(3) If Test 2 could be technically satisfied by improving the deficient Link(s), the County Engineer may determine that such improvements will not satisfy Test 2 where such improvements do not result in additional capacity sufficient to solve the deficiency on the Major Thoroughfare Network or do not provide continuity based upon generally accepted traffic engineering principles.

(4) The LEVEL OF SERVICE D and E Standard Volumes as to Average Annual Daily Traffic, Peak Hour Traffic and Peak Hour, Peak Season, Peak Direction (Alternate Test 1) for Links are set forth in Table 1A, and 1B, respectively.

TABLE 1A
LEVEL OF SERVICE D

	Peak Hour	ADT Test 1	ALT Test 1
FACILITY TYPE	LOS D STANDARD	LOS D STANDARD	LOS D STANDARD
2 lanes undivided	1,220	13,400	1,030
3 lanes two-way	1,280	14,000	1,080
2 lanes one-way	1,600	17,600	2,650
3 lanes one-way	2,460	27,000	4,000
4 lanes undivided	2,140	23,520	1,770
4 lanes divided	2,670	29,400	2.210
5 lanes divided	2,670	29,400	2,210
6 lanes divided	4,100	45,000	3,330
8 lanes divided	5,070	55,800	4,170
4 lanes expressway	6,070	68,900	3,450
6 lanes expressway	9,100	103,400	5,170
8 lanes expressway	12,130	137,900	6,890
10 lanes expressway	15,170	172,300	8,610

Source: FDOT Level of Service Manual, Generalized Daily Level of Service Maximum Volumes, Group C and Group 1, and Generalized Peak Hour/Peak Directional Level of Service Maximum Volumes, Group A and Group 1 for urbanized areas (April 1992).

For the Detailed Analysis for Alternate Test One, Level of Service D shall be the Sum of the Critical Volumes of one thousand four hundred (1,400) in accordance with the Planning Method in the 1985 Manual.

TABLE 1B
LEVEL OF SERVICE E

	Peak Hour Test 1	Alternate ADT Test 1	
FACILITY TYPE	LOS E STANDARD	LOS E STANDARD	LOS E STANDARD
2 lanes undivided	1,370	1,5000	1,280
3 lanes two-way	1,450	15,700	1,340
2 lanes one-way	1,760	19,300	3,120
3 lanes one-way	2,660	29,300	4,670
4 lanes undivided	2,350	25,800	2,080
4 lanes divided	2,930	32,200	2,600
5 lanes two-way	2,930	32,200	2,600
6 lanes divided	4,440	48,800	3,890
8 lanes divided	5,550	60,400	4,870
4 lanes expressway	6,500	74,000	3,710
6 lanes expressway	9,780	111,200	5,560
8 lanes expressway	13,050	149,200	7,410
10 lanes expressway	16,310	185,300	9,260

Source: FDOT Level of Service Manual, Generalized Daily Level of Service Maximum Volumes, Group C and Group 1, and Generalized Peak Hour/Peak Directional Level of Service Maximum Volumes, Group A and Group 1 for urbanized areas (April 1992).

For the Detailed Analysis for Alternate Test One, Level of Service E shall be the Sum of the Critical Volumes of one thousand five hundred (1,500) in accordance with the Planning Method in the 1985 Manual.

(D) Intersection Review.

A SITE SPECIFIC DEVELOPMENT ORDER which would, during the BUILDOUT PERIOD of the PROJECT, result in NET TRIPS equal to or more than ten percent (10%) of TOTAL TRAFFIC on an AADT basis on any LINK connecting a MAJOR INTERSECTION within the PROJECT'S RADIUS OF DEVELOPMENT INFLUENCE, shall provide a Detailed Analysis of the Critical Volume in the intersection and may be required as a condition of the Site Specific Development Order, or Road Agreement, to provide intersection improvements.

If Peak season counts are not readily available, the Peak Season count may be established using factors established by the County Engineer based upon the best available data and generally accepted traffic engineering principles.

(E) Maximum Radius of Development Influence. Tables 2A and 2B represent the maximum Radius of Development Influence (Test 1) and Model Maximum Radius of Development Influence (Test 2) for the specific volume of the PROPOSED PROJECT'S Net Trips. The actual radius of development influence may vary, depending upon the distribution of the Project's Net Trips on the Major Thoroughfare system based upon the configuration of such and location of the project on the Major Thoroughfare system, based upon generally accepted traffic engineering principles, in which case the County Engineer may require a larger Radius of Development Influence.

TABLE 2A
Test 1 - Link/Buildout Test
MAXIMUM RADIUS OF DEVELOPMENT INFLUENCE

Net Trip Generation	Distance
1 - 200	Only address Directly Accessed Link on first accessed major thoroughfare
201 - 500	.5 mi.
501 - 1,000	1 mi.
1,001 - 5,000	2 mi.
5,001 - 10,000	3 mi.
10,001 - 20,000	4 mi.
20,001 - Up	5 mi.

Where a Proposed Project has a Radius of Development Influence greater than one-half (.5) mile, then that Project must address only those Links beyond the one-half (.5) mile radius on which its Net Trips are greater than one percent (1%) of the Level of Service D AADT volume of the Link affected up to the limits set forth in this Table 2A. Provided, in all cases, I-95 shall be addressed only if Net Trips on I-95 are greater than five percent (5%) of the Level of Service D AADT volume.

TABLE 2B
Test 2 - Model Test
MAXIMUM RADIUS DEVELOPMENT INFLUENCE

Net Trip Generation	Distance
1 - 50	Need not address any link under Test 2
51 - 1,000	Only address directly-accessed link on first accessed major thoroughfare.
1001 - 4,000	1 Mi.
4001 - 8,000	2 Mi.
8001 - 12,000	3 Mi.
12,001 - 20,000	4 Mi.
20,001 - up	5 Mi.

Except for Projects generating fewer than fifty-one (51) trips, all Projects must address at least the Directly Accessed Link. When a Site Specific Development Order has a Radius of Development Influence beyond the Directly Assessed Link, then that Project must address only those links beyond the Directly Accessed Link on which its Net Trips are greater than three percent (3%) of the Level of Service D on an AADT basis of the Link affected up to the limits set forth in this Table 2B. Provided, in all cases, I-95 shall be addressed only if Net Trips on I-95 are greater than five percent (5%) of the Level of Service D AADT volume.

(F) Phasing - Phasing may be utilized by the APPLICANT to establish compliance with this standard if all of the following conditions are met:

(1) The Proposed Project is able to comply with all the other Concurrency Requirements of the Plan in the unincorporated area.

(2) The proposed phasing results in the PROPOSED PROJECT complying with the standards set forth in paragraphs (A) and (B) of this Subsection 2.

(3) The proposed phasing comports with the extent and timing of the ASSURED CONSTRUCTION.

(4) The COUNTY ENGINEER confirms that construction is in fact ASSURED CONSTRUCTION.

(5) For any ASSURED CONSTRUCTION which is to be completed by the APPLICANT as to the Unincorporated Area, the Applicant must agree in writing prior to the application being accepted that a condition of approval must be imposed or an AGREEMENT executed and sufficient PERFORMANCE SECURITY must be required; and as to the Incorporated Area either an Agreement must be executed by all parties prior to or concurrent with the issuance of the Site Specific Development Order, or the Site Specific Development Order must have as a condition the completion of the Assured Construction and timely posting of Performance Security.

(6) BUILDING PERMITS for that portion of a PROJECT approved with phasing which if standing alone would be the Entitlement phase of the PROJECT may be issued notwithstanding the standards in paragraph (A) and (B) of this Subsection 2.

(7) Conditions of the Development Order are imposed or an Agreement is entered which ensure permits are restricted in accordance with the phasing.

(8) Phasing shall be controlled by the non-issuance of building permits. Phasing may not occur by issuing building permits for any of the phased units or square feet and withholding the certificate of occupancy, inspections, or other items subsequent to the issuance of building permits. A Local Government may control phasing by a means prior to the issuance of building permits.

(G) Reliance on Assured Road Construction.

(1)If a PROJECT is approved or phased based on ASSURED CONSTRUCTION, BUILDING PERMITS shall be granted for the phase or portion of the PROJECT approved based on the ASSURED CONSTRUCTION no sooner than the commencement of construction.

(2) However, if the ASSURED CONSTRUCTION is in the first three (3) years of the County's Five Year Road Program Ordinance as construction and was relied upon for the issuance of the SITE SPECIFIC DEVELOPMENT ORDER and the construction is subsequently deleted from the Palm Beach County Five Year Road Program Ordinance, BUILDING PERMITS for development that was phased to that Assured construction shall be issued, but not sooner than the end of the fiscal year construction was to commence. For purposes of this paragraph, "deleted" shall mean the elimination of the construction project, the material reduction in the scope of construction work or funding thereof (as it affects the construction project), the postponement of the construction project for more than two years (one (1) year for PROJECTS approved prior to June 16, 1992) beyond the year the construction was originally programmed in the first three (3) years of the County's Five Year Road Program.

(H) DRI. DEVELOPMENT ORDERS for a Development of Regional Impact (DRI) with a project buildout of more than five (5) years may meet Test One and Alternate Test One based on Development Order conditions that phase building permits to the commencement of ASSURED CONSTRUCTION for the first five years of the project and the construction of identified roadway links in the 2010 Plan Network beyond the first five years of the project. No building permits within the DRI may be issued until the roadway improvement that the building permits are phased to is under construction.

Notwithstanding the provisions above, any project which is a DRI, located east of I-95, which is phased to any single roadway project costing in excess of $15 million, may consider that roadway project to be under construction for the purpose of issuing building permits if the roadway project is in the first three years of an adopted work program. The DRI development order must include a condition that the roadway project must be under construction no more than three years after the certificate of occupancy (or functional equivalent) for the portion of the development that precipitated the need for the roadway project.

[Ord. No. 93-17] [Ord. No. 94-23] [Ord. No. 95-8]

SECTION 15.(I) E - TRAFFIC IMPACT STUDIES.

Subsection 1. Generally

In order to demonstrate that an application for a SITE SPECIFIC DEVELOPMENT ORDER complies with this Section, the APPLICANT shall submit a TRAFFIC IMPACT STUDY, except as set forth in Section 15.(I) G, Subsection 1(C).

Subsection 2. Traffic Impact Study

(A) Scope - A TRAFFIC IMPACT STUDY shall be required for any Proposed PROJECT, except as set forth in Section 15.(I) G. Subsection 1(C). It shall address the requirements and standards of this Section; shall be presented concisely using maps whenever practicable; and shall state all assumptions and sources of information. The form and level of detail required shall be established by the County Engineer in accordance with accepted traffic engineering principles. A study which addresses only the Standards of this code may be submitted initially for a Certificate of Concurrency, in which case the Applicant shall submit any additional study necessary concurrent with the application for the Site Specific Development Order.

(B) Methodology - The following methods of evaluation, standards, and information shall be addressed unless the APPLICANT can, to the satisfaction of the COUNTY ENGINEER or Municipal Engineer on Project Traffic fewer than 1,001 Gross Trips, affirmatively demonstrate that, because of circumstances peculiar to the PROPOSED PROJECT or Major Thoroughfare system impacted by the Proposed PROJECT other methods or standards provide a more accurate means to evaluate the LINKS, intersections, and traffic impact of the PROPOSED PROJECT:

(1) Level of Service - The Adopted LEVEL OF SERVICE for Test One, or Alternate Test 1, and Test 2, as applicable, for all MAJOR THOROUGHFARES within the applicable RADIUS OF DEVELOPMENT INFLUENCE shall be used.

(2) Traffic Assignment - The TOTAL TRAFFIC shall be computed, and traffic assignments of the NET TRIPS made, for each LINK and MAJOR INTERSECTION within the PROJECT'S RADIUS OF DEVELOPMENT INFLUENCE and Model Radius of Development Influence in conformity with accepted traffic engineering principles for both Test 1, Alternate Test 1, and Test 2. The assignments shall address phasing and cover the BUILDOUT PERIOD of the PROJECT for Test 1.

(3) Radii of Development Influence - The traffic study shall use the RADII OF DEVELOPMENT INFLUENCE for Test 1 and Test 2.

(4) Projected BUILDOUT PERIOD - The projected BUILDOUT PERIOD of the PROJECT shall be set forth in the study and shall be subject to the review and approval of the COUNTY ENGINEER, or Municipal Engineer on Project Traffic of fewer than 1,001 Gross Trips, based on the following criteria.

(a) The size, type and location of the PROPOSED PROJECT.
(b) Customary BUILDOUT PERIODS for PROJECTS of similar size, type, and location.
(c) Any other factors or conditions relevant to the specific PROJECT, including special market conditions and schedules of ASSURED CONSTRUCTION.

(5) Existing Traffic - (AADT) - AVERAGE ANNUAL DAILY TRAFFIC shall be used as defined in this Section. Where current data are not available to establish existing AADT, the APPLICANT shall elect one of the following methods to establish AVERAGE ANNUAL DAILY TRAFFIC:

(a) Counts - The APPLICANT may provide traffic counts if approved by the COUNTY ENGINEER, or Municipal Engineer on Project Traffic fewer than 1,001 Gross Trips, prior to the counts being taken in accordance with accepted traffic engineering principles. Counts shall be made during any continuous twenty-four (24) hour period from six (6) o'clock AM, Monday to eight (8) PM Friday, except legal holidays, unless otherwise authorized or required by the COUNTY ENGINEER, or Municipal Engineer on Project Traffic fewer than 1,001 Gross Trips, in accordance with accepted traffic engineering principles. All data are subject to review and acceptance by the County Engineer or Municipal Engineer on Project Traffic of fewer than 1,001 Gross Trips, based upon accepted traffic engineering principles.

(b) Factors - Where a PEAK SEASON or OFF-PEAK SEASON traffic count is not readily available, the count which is unavailable may be established using factors established by the County Engineer for various areas of the County based on the best available data and generally accepted traffic engineering principles.

(c) Model test. For the Model Test, the Project shall be evaluated based upon Total Model Traffic and Model Radius of Development Influence.

(6) Existing traffic - Peak Hour - PEAK HOUR TRAFFIC shall be determined by factoring the AVERAGE ANNUAL DAILY TRAFFIC by a "K" factor of 9.6%.

(7) Traffic Generation - Traffic generated by the PROJECT shall be computed in the following manner:

(a) Rates. Trip generation rates presented in Table 10.8-1 shall be used to calculate project trips. If no appropriate rates are listed in Table 10.8-1, the rate equation or tables published in the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation and Informational Report shall be used unless the COUNTY ENGINEER accepts that other standards provide a more accurate means to evaluate the rates of generation or if documentation is supplied by the APPLICANT which affirmatively demonstrates more accurate generation rates based on accepted engineering principles.

(b) Local Conditions - The Palm Beach COUNTY ENGINEER shall publish, and update from time to time, trip generation rates for local conditions and, if applicable, these rates shall be used instead of the ITE rates.

(c) Similar Developments - Actual traffic counts which establish the generation rate at three (3) similar developments located in similar areas as the one proposed may be used if approved by the COUNTY ENGINEER in accordance with accepted traffic engineering principles. These counts shall be made for the weekdays (excluding legal holidays) as set forth in paragraph (5) for each site and averaged.

(8) Pass by Trips - It is acknowledged that some trips generated by a proposed non-residential PROJECT are from Existing Traffic passing the PROPOSED PROJECT and are not newly generated trips. Credit against the trip generation of the PROPOSED PROJECT may be taken for these trips up to the percentage shown in Table 4, or the ITE manual when approved by the County Engineer. The study must detail: (1) all traffic generated from the PROJECT, and (2) the number of PASS-BY TRIPS subtracted from the traffic generated by the PROJECT during the BUILDOUT PERIOD of the PROJECT.

Uses other than those listed below, and any percentage credit proposed to be taken in excess of that shown in Table 4, must be justified based on accepted traffic engineering principles to the satisfaction of the COUNTY ENGINEER as part of the required traffic study, based upon the peculiar characteristics and location of the PROPOSED PROJECT. Factors which should be considered in determining a different Pass-by rate include type and size of land use, location with respect to service population, location with respect to competing uses, location with respect to the surrounding Major Thoroughfare system, and existing and projected traffic volumes. Table 4 may be updated by resolution of the Board of County Commissioners. In no case shall the number of PASS-BY TRIPS exceed twenty-five percent (25%) of Existing Traffic plus Background Traffic on the Link, unless demonstrated otherwise to the satisfaction of the County Engineer based on generally accepted traffic engineering principles.

TABLE 4
PERCENT OF PASS-BY TRIPS

TYPE OF LAND	PASS-BY TRIP RATE	DEVELOPMENT ACTIVITY (PERCENTAGE)
Drive In Bank		46%
Day Care Center		10%
Quality Restaurant		15%
High Turnover Sit Down Restaurant		15%
General Commercial Retail *		
10,000 Sq. Ft.		45%
50,000 Sq. Ft.		44%
100,000 Sq. Ft.		43%
200,000 Sq. Ft.		41%
300,000 Sq. Ft.		38%
400,000 Sq. Ft.		36%
500,000 Sq. Ft.		34%
600,000 Sq. Ft.		32%
800,000 Sq. Ft.		27%
1,000,000 Sq. Ft.		23%
1,200,000 Sq. Ft.		18%
1,400,000 Sq. Ft.		14%
1,600,000 Sq. Ft.		9%
Fast Food Restaurant		30%
Gas Station		58%
Convenience Store		45%

* Pass-By Percent Formula (For General Commercial)

Pass-By% = 45.1 - .0225(A)
A = Area in 1,000 gross square feet of leasable area

TABLE 5
PROJECTED NETWORK DEFICIENCIES
MODEL PLAN
ROADWAY LINKS BELOW AADT LEVEL OF SERVICE D

ROADWAY	FROM	TO
10TH AVENUE NO.	Congress Avenue	I-95
45TH STREET	Village Boulevard	I-95
AIA	Ocean Avenue	State Road 80
BELVEDERE ROAD	I-95	Parker Avenue
BROADWAY	59th Street	Port Road
CAMINO REAL	US 1	ICWW
CENTRAL BLVD	Indiantown Road	Church Road
CLINT MOORE RD	Jog Road	Military Trail
FEDERAL HIGHWAY	Mizner Boulevard	Yamato Road
GLADES ROAD	Butts Road	Perimeter Road
MILITARY TRAIL	Belvedere Road	Okeechobee Blvd
OKEECHOBEE BLVD	Folsom Road	Sem.-Pratt Whitney
OKEECHOBEE BLVD	Royal P Bch Blvd	State Road 7
OKEECHOBEE BLVD	Fla's Turnpike	Palm Bch Lakes Blvd
OKEECHOBEE BLVD	Congress Avenue	I-95
OKEECHOBEE BLVD	Australian Avenue	Tamarind Avenue
PALM BCH LAKES BLVD	Okeechobee Blvd	Mall East Entrance
PALMETTO PARK ROAD	Military Trail	SW 12th Street
SEM.-PRATT WHITNEY RD	60th Street	Northlake Blvd
SOUTHERN BLVD	I-95	Parker Avenue
STATE ROAD 7	Okeechobee Blvd	Roebuck Road
SUMMIT BLVD	Florida Mango	Parker Avenue
YAMATO ROAD	I-95	NW 2nd Avenue

(9) Background Traffic

(a) Generally. Existing traffic volumes will likely change during the BUILDOUT PERIOD of the PROPOSED PROJECT. The traffic study must account for this change in traffic based on BACKGROUND TRAFFIC during the BUILDOUT PERIOD of the PROPOSED PROJECT. The projection of BACKGROUND TRAFFIC shall be based upon the information set forth on the HISTORICAL TRAFFIC GROWTH RATE TABLE and the map of MAJOR PROJECTS, and shall be established in accordance with the requirements set forth in this Section and accepted engineering principles. This change in traffic shall be shown as it relates to the proposed phasing.

(b) Historical Growth Tables. Using the HISTORICAL TRAFFIC GROWTH TABLES of the COUNTY ENGINEER, the study shall forecast the change in traffic volumes based on BACKGROUND TRAFFIC within the PROPOSED PROJECT'S RADIUS OF DEVELOPMENT INFLUENCE during the BUILDOUT PERIOD of the PROPOSED PROJECT. This change shall be on an AADT and average peak hour basis for Test 1 and a Peak Season, Peak-Hours-to-be-studied basis for Alternate Test 1. The effect of MAJOR PROJECTS shall be considered in projecting the increase or decrease in traffic volumes so as to ensure that there is no double counting or omission in BACKGROUND TRAFFIC. In using the historical growth tables, engineering judgement shall be used to take into account special circumstances such as the opening of a parallel road or a high traffic generation that may distort the growth trend. For projects with a lengthy buildout time (five (5) years or more) an areawide growth rate using a number of locations in the tables may be appropriate. No growth rate less than zero (0%) percent may be used without approval of the COUNTY ENGINEER when the growth rate is a negative. Zero (0%) percent shall be used unless approved by the COUNTY ENGINEER.

(c) Major Project Maps. Using the MAJOR PROJECT Maps, all traffic from the unbuilt portion of MAJOR PROJECTS which have received a concurrency reservation prior to the County Engineer's approval of the PROPOSED PROJECT'S traffic study which will add more trips than ten percent (10%) of the LEVEL OF SERVICE D (Table 1A) to any Link within the PROPOSED PROJECT'S RADIUS OF DEVELOPMENT INFLUENCE during the BUILDOUT PERIOD OF PROPOSED PROJECT shall be specifically accounted for in projecting TRAFFIC. No double counting of trips shall occur, and the historically derived projections shall be adjusted based upon the impact of MAJOR PROJECTS. Only the traffic generated from the unbuilt portions of the MAJOR PROJECTS as set forth above which are projected to be built during the BUILDOUT PERIOD of the PROPOSED PROJECT shall be considered.

(d) Background Traffic. The projection of BACKGROUND TRAFFIC during the BUILDOUT PERIOD of the PROPOSED PROJECT shall be based upon, and subject to the review and approval of the COUNTY ENGINEER, or Municipal Engineer on Project Traffic of fewer than 1,001 Gross Trips, using the following criteria:

- **(i)** Historical growth shown on tables of COUNTY ENGINEER
- **(ii)** Characteristics of growth in the RADIUS OF DEVELOPMENT INFLUENCE
- **(iii)** Extent of existing, approved, and anticipated development in the Radius of Development Influence
- **(iv)** Types and sizes of development in the area
- **(v)** Traffic circulation in the area
- **(vi)** MAJOR PROJECTS' impact
- **(vii)** New and assured road construction

(10) Assured Construction. ASSURED CONSTRUCTION shall be considered completed as scheduled for the purpose of preparation of the study. Whether it is in fact ASSURED CONSTRUCTION and the timing of the ASSURED CONSTRUCTION shall be subject to the confirmation of the COUNTY ENGINEER. The Traffic Impact Study shall specifically identify the need for phasing based on Assured Construction.

(11) Project Phasing. The traffic study may reflect a proposed phasing schedule for the development of the PROPOSED PROJECT. This schedule shall address the time at which each phase will place traffic impacts on the MAJOR THOROUGHFARES within the RADIUS OF DEVELOPMENT INFLUENCE and shall include the following:

(a) Generation. Project traffic figures and assignments for each proposed phase; and

(b) Assured Construction. Where the evaluation of phased traffic impact includes the effect of ASSURED CONSTRUCTION, sufficient information regarding the proposed construction to ensure that the roadways realistically will be constructed at the times stated.

(12) Peak Hours. Generally, for the detailed analysis, and the site related analysis, the study shall address the AM and PM Peak Hours Total Peak Hour Traffic, unless traffic characteristics dictate that only one of the Peak Hours be analyzed. In some cases, the COUNTY ENGINEER, or Municipal Engineer on Project Traffic of fewer than 1,001 Gross Trips, may still require analysis of other Peak Hours where indicated by accepted traffic engineering principles. The total peak hours analyzed shall not exceed two (2) in number.

(13) Net trips. For proposed Projects generating more than seven thousand (7,000) Net Trips, information sufficient for the County Engineer to utilize the Model to assign Net Trips to the Model Plan.

(14) Compliance. The analysis must demonstrate compliance with the standard contained in Section 15.(I) D, Subsection 2(A) and (B); "Standard, Build-out/Model Standard Buildout Test, Model Test."

(15) Professional Services. The traffic study shall be prepared, sealed and signed by a qualified professional engineer, licensed to practice in the State of Florida and practicing traffic engineering.

(16) List. A list of Municipalities within the proposed Project's Radius of Development Influence.

Subsection 3. Detailed Analysis of Alternate Test One.

(A) Analysis. The Detailed Analysis for Alternate Test One shall meet the following requirements in addition to all other requirements of this Section 15.(I) E:

(1) Transportation Research Board Special Report 209 shall be used as the methodology for analysis.

(2) The afternoon Peak Hour between four (4) and six (6) PM during the Peak Season shall be studied in all cases. Generally, the morning Peak Hour between seven (7) and nine (9) AM during the Peak Season shall be also studied, unless higher volumes occur outside of the seven (7) to nine (9) A.M. period at the intersection are observed. In that case other Peak Hours outside of the seven (7) to nine (9) A.M. period during the Peak Season shall be used.

(3) Each AM and PM Peak Hour shall be the highest sum of the volume on the approaches to the intersection. It shall be the highest sum of four (4) continuous fifteen (15) minute periods.

(4) Once the AM and PM Peak Hours are established, the PEAK HOUR NET TRIPS shall be assigned to the Major Intersection and Link for the Peak Hours studied.

(5) The Major Intersections at each end of an over-capacity Link shall be studied, unless the Major Intersection is not signalized, in which case the County Engineer or Municipal Engineer may require study of an alternate signalized or unsignalized intersection within the Link, based on generally accepted traffic engineering principles.

(6) The critical volume for the Major Intersection shall be projected over the Buildout Period of the Project by proportionally increasing the approaches and movements based upon the Historical Traffic Growth Table or other generally accepted traffic engineering principles using the best available information.

(B) Effect of Detailed Analysis. The approach or Link data for the subject approaches or Link shall be used for a period of six (6) months following the date of the earliest-gathered data, unless the County Engineer provides a shorter time because of a Major Project's impact or other substantial changes in the area affecting the intersection such that volumes or travel patterns would likely change. The County Engineer shall maintain a list of the dates when the approach and Link data were gathered, and the expiration date of such. If newer data are available, they shall be used.

(C) Off-Peak to Peak Season factors. Off-peak to peak season factors shall be established by the County Engineer for various areas of Palm Beach County based upon the best available data and generally accepted traffic engineering principles. Other factors based on generally accepted traffic engineering principles shall be used to update data where newer data can not be obtained.

Subsection 4. Site Related Improvements.

In addition to the LINK and intersection standards and studies, all peak hour(s) turning movements (including Pass-by trips) shall be shown and analyzed using the analysis in the 1985 Manual for all points where the PROJECT's traffic meets the DIRECTLY ACCESSED LINKS and other roads where traffic control or geometric changes may be needed, as determined by the County Engineer. Recommendations shall be made concerning signalization and turn lanes. For projects in the Unincorporated Area, the County may require such to ensure the safe and orderly flow of traffic.

Subsection 5. Conditions.

The Concurrency Reservation or Site Specific DEVELOPMENT ORDER shall contain such conditions as are necessary to ensure compliance with this Section. The Local Governments, including the legislative and administrative boards, the Palm Beach County Development Review Committee (DRC), and officials, issuing Concurrency Reservations or Site Specific DEVELOPMENT ORDERS are authorized to, and shall, impose such conditions. The Local Governments including the legislative and administrative boards, the DRC, and officials shall require where necessary to ensure compliance with this Section that a ROAD AGREEMENT or other AGREEMENT be executed prior to the issuance of the Site Specific DEVELOPMENT ORDER. PERFORMANCE SECURITY shall be required to ensure compliance with the conditions or performance under the AGREEMENT or condition of approval. The AGREEMENT or conditions of approval shall be binding on the owner, its successors, assigns, and heirs; and it, or notice thereof, shall be recorded in the Official Records of the Clerk of the Circuit Court in and for Palm Beach County, Florida.
[Ord. No. 93-4]

SECTION 15.(I) F - MODELING OF TRIPS.

Subsection 1. Generally.

The Department of Community Affairs in conjunction with the Florida Department of Transportation requires that all Traffic from both approved-built and approved-unbuilt Projects be "loaded" on the Major Thoroughfare system. This loading is done by the Model using the Modified 2010 Plan.

Subsection 2. Relationship to Traffic Impact Studies.

(A) Intent. The Model is intended to be used as a planning tool to estimate the remaining available capacity on the Major Thoroughfare system. It is a general planning tool which does not lend itself to analyzing specific Traffic Impact Studies. Therefore, Applicants should not assign Project Traffic using the Model. However, Applicants may provide input to the County Engineer or the Metropolitan Planning Organization in updating the data and recalibrating the Model.

(B) Utilization. Notwithstanding paragraph (A) above, the Model shall be utilized by the County Engineer to assign Net Trips for Test Two purposes on proposed Projects generating more than seven thousand (7,000) Net Trips.

The Model Plan is a long-term plan. Because of its distance in time, many things may change which will result in a different Major Thoroughfare system. Therefore, it is not accurate for purposes of ensuring that road capacity not be "given away" twice.

Subsection 3. Iterative Model.

(A) Information in Plan's Table 2. Socio-economic data from all municipally-approved but unbuilt Projects were not included in the model because the data was not available. All approved but unbuilt Projects in the unincorporated area were included. It is anticipated that some of these unincorporated Projects will not receive Concurrency Exemption Determinations under the Concurrency Exemption Ordinance. It is presently believed that this overestimation of County approvals and absence of municipal approvals roughly balances, resulting in an acceptable estimation for the determination of Model Traffic for the application of this Section for a relatively short time.

However, it is necessary as a planning tool and a concurrency management tool that the County establish an estimation that warrants confidence. The County shall complete its socio-economic data update from its Concurrency Exemption process no later than July 1, 1991. Any units or square footage lost through the application of the County's Unified Land Development Code shall be removed from the Model socio-economic data as approved, unbuilt land uses.

(B) Municipal Responsibility.

(1) List. Therefore, by July 1, 1991, the Planning Division, with the cooperation of the municipalities, shall establish a final list of approved but unbuilt Projects and built Development in the municipalities. The list shall include the estimated buildout date for each residential project containing more than fifty (50) units. The traffic from these approvals shall be "loaded" in the Model no less frequently than every six (6) months as data is gathered and refined.

(2) Information. In order to update the socio-economic data used in the Model, the Municipality shall identify and provide the County with preliminary but complete information as to specific uses approved, their locations, the density or intensity of each use, and the extent of the development already built and yet to be built. This shall be sent to the County as soon as practical following receipt of the data forms and maps from the Palm Beach County Planning Division. These forms and maps shall be used by the municipality.

(3) Update. The municipality shall update this information no less frequently than every six (6) months as a result of all new information, including SITE SPECIFIC DEVELOPMENT ORDERS issued after preliminary submittal referenced in paragraph (2) and units or square footage lost through the application of the Municipal land development regulations. Updates to the socio-economic data base which are the result of municipal determinations as to Previous Approvals shall be sent to the County Engineer within fifteen (15) days of each determination but in no case no later than July 1, 1991. This updated information shall be used for informational purposes to update the socio-economic data base, by TAZ, for the Model.

(4) Appeals. Subsequent to the six (6) month update of the Model, appeals by interested persons who provided written input in accordance with Subsection (2) may be filed with the Appeals Board established in Section 15.(I) I; Appeals. Appeals shall be filed within thirty (0) days of the County Engineer's publishing of the updated Model information, care of the County Engineer, Traffic Division. The appeals shall state the grounds therefor.

(5) Nothing herein shall restrict input on the Model outside of the process of this paragraph B.

Subsection 4. Adjustments

(A) AADT - The Model reflects Peak Season weekday average daily traffic. All updates of the Model shall include an adjustment to reflect Average Annual Daily Traffic.

(B) Phasing/Assured Construction

(1) That traffic from the portion of a project phased to improvements on a LINK which are not included in the Model Plan shall not be included in the Model until the LINK, as improved, is included in the Model Plan.

(2) Assured construction shall be included in the Model Plan system.

SECTION 15.(I) G - PROCEDURE.

Subsection 1. Required Submission of Impact Study.

(A) When submitted - Prior to acceptance of any application for a Site Specific DEVELOPMENT ORDER in the unincorporated area, or issuance of a Site Specific Development Order in the incorporated area, a non-refundable application fee established by the Board of County Commissioners from time to time to defray the actual cost for processing the application, shall be submitted along with one of the following:

(1) Documentation sufficient to establish that the application is not subject to this Section pursuant to Section 15.(I) C, Subsections 2 or 5; "Applicability, Previously-approved Development Orders" "Municipal Determination of Previous Approval"; or

(2) Documentation sufficient to establish that this section does not apply to the application pursuant to Section 15.(I) C, Subsection C; "Applicability, Non-applicability"; or

(3) Traffic Impact Study.

(B) Review by County Engineer - the COUNTY ENGINEER or Municipal Engineer, as applicable, shall review the information submitted pursuant to paragraph (A) and determine whether the PROPOSED PROJECT complies with this Section. In the unincorporated area the County Engineer shall coordinate with the Planning Division whether the Site specific Development Order meets the other Concurrency Requirements of the Plan. The procedures set forth in the Adequate Public Facilities Section, shall control; except as to any appeals from this section, in which case Section 15.(I) I, "Appeals," of this Section shall control. Nothing herein or in the Adequate Public Facilities Section shall preclude direct informal communication between the County Engineer and the Applicant or his agents. In the Unincorporated Area, a statement that an application for a Site Specific Development Order is being considered shall be sent to any Municipality within the proposed Project's Radius of Development Influence thirty (30) days prior to the issuance of the Site Specific Development Order for all proposed Projects generating more than one thousand (1,000) Gross Trips. The statement shall be sent by U.S. Mail, or hand delivered.

(C) No Study Needed.

(1) Residential - Residential Projects generating fewer than two hundred (200) Gross Trips based on standard Institute of Transportation Engineers rates of seven (7) trips per multi-family unit and ten (10) trips per single family unit shall not be required to submit a Traffic Impact Study. The NET TRIPS shall be distributed over the Major Thoroughfare system by the County Engineer or Municipal Engineer, as the case may be, in accordance with generally accepted traffic engineering principles.

(2) Non-residential amendments - Amendments to non-residential Projects generating fewer than two hundred (200) Gross Trips based on standard Institute of Transportation Engineers rates for the particular use of land shall not be required to submit a Traffic Impact Study, provided the amendment does not change the use.

(3) Exceptions - If Alternate Test One is utilized a TRAFFIC IMPACT STUDY shall be submitted. If the APPLICANT desires to appeal the distribution or decision of the County or Municipal Engineer, a Traffic Impact Study shall be submitted. The standards of this Section shall be met.

Subsection 2. Review of Traffic Impact Study

(A) County Engineer Review - On all proposed Projects having more than one thousand (1,000) daily Gross Trips, the County Engineer shall have sole authority for reviewing Traffic Impact Studies for purposes of determining compliance with this Section.

(B) Municipal Review - On all other proposed Projects the Municipality shall perform such review unless the Municipality provides in writing, delivered to the County, that the Municipality elects to require review by the County Engineer. If the Municipality elects to perform the review, it shall be done by a Municipal Engineer. The review shall be in accordance with the requirements of this Section. In the case of Municipal review, thirty (30) days prior to approval of the application for the Site Specific Development Order, the Traffic Impact Study, along with the determination of the reviewing traffic engineer, shall be sent to the County Engineer, c/o Traffic Division, 160 Australian Avenue, West Palm Beach, Florida, 33402. A statement that the Municipality is considering an application for a Site Specific Development Order shall also be sent to any Municipality within the Project's Radius of Development Influence involved thirty (30) days prior to issuance of the Site Specific Development Order for all proposed Projects generating more than one thousand (1,000) Gross Trips. All documents under this section shall be sent by U.S. Mail, or hand delivered.

(C) Prohibitions.

(1)In the case of all Site Specific DEVELOPMENT ORDERS issued by the DRC, no application shall be certified for inclusion on the DRC agenda if issuance of the Site Specific DEVELOPMENT ORDER would be prohibited by this Section.

(2) In the case of all other Site Specific Development Orders in the unincorporated area, no application shall be accepted if issuance of the Site Specific Development Order would be prohibited by this Section.

(3) In all cases in the unincorporated area if the Site Specific Development order does not meet the other Concurrency Requirements of the Plan, no application shall be certified for inclusion on an agenda of a reviewing body or accepted, as the case may be, except as otherwise provided by Article 11 of the Unified Land Development Code.

(4) In the case of all Site Specific Development Orders in the Incorporated Area, no Site Specific Development Order shall be issued if such issuance would be prohibited by this Section. In no case shall the Site Specific Development Order be issued prior to thirty (30) days following delivery of the notice in accordance with paragraph B of this Subsection 2.

(D) Appeals - Determinations of the COUNTY ENGINEER or Municipal Engineer must be in writing and any denial shall state the reasons thereof. Determinations of denial may be appealed pursuant to Section 15.(I) I; "Appeals;" of this Section.

SECTION 15.(I) H - ENTITLEMENT.

Subsection 1. Generally.

(A) The Board of County Commissioners recognizes that a reasonable and beneficial economic use of property should be afforded a property owner. This Section is intended to implement the provisions in the Plan that allow a reasonable and beneficial economic use of property while minimizing trip generation.

Subsection 2. Unincorporated Area.

As to the Unincorporated Area, a Site specific DEVELOPMENT ORDER may be issued for a PROJECT not exceeding entitlement density or intensity set forth in the Plan, provided the order is otherwise consistent with the requirements of the Plan and land development regulations of Palm Beach County.

Subsection 3. Incorporated Area.

As to the Incorporated Area, a Site Specific Development Order may be issued for a Project not exceeding entitlement density or intensity as set forth in the Plan. As to residential land uses it shall be based on the densities set forth in Figure 2 of the Land Use Element of the Plan, that correspond to the Municipal density in its Comprehensive Plan, with any density exceeding eighteen (18) dwelling units per acre receiving the entitlement level set forth in the 5-to-18-du-per-acre range. As to commercial and industrial, entitlement shall be two and one-half percent (2 1/2%) of the maximum square footage of floor area allowed under the land use category or zoning district of the Municipality.

Subsection 4. Discretion of Board.

The Board of County Commissioners may exceed the limitations set forth in the Plan upon a determination by the Board that the limitations permitted by the Article would likely constitute a taking of land for public use for which compensation would have to be paid pursuant to law. This Subsection 4 may only be exercised upon the special petition of the property owner to the Board of County Commissioners which affirmatively demonstrates by substantial competent evidence that no other economically feasible land use which would generate less traffic for the subject property is available because of: (1) this Section; (2) the nature of the land uses in the area; (3) the size and configuration of the property; and (4) other relevant factors. The Board of County Commissioners shall receive the advice of the County Attorney and the County Administrator, and any other person it deems appropriate in exercising its discretion under this Subsection 4. If the subject Lot is in the Incorporated Area, the Board of County Commissioners shall consider the advice, if any, of the Municipality in which the Lot is located.

SECTION 15.(I) I - APPEALS.

Subsection 1. Board.

Except as specifically provided in this Section, appeals from the decisions of the COUNTY ENGINEER or Municipal Engineer, and from all traffic engineering decisions, shall be taken to the Traffic Performance Standards Appeals Board. Appeals may be brought by the Applicant, any Municipality within the Project's Radius of Development Influence, and the County. The Board shall consist of the Director of the Metropolitan Planning Organization, a professional traffic engineer employed by a municipality as a traffic engineer, a professional traffic engineer employed by another Florida County, a professional traffic engineer employed by the Florida Department of Transportation, District IV, and a professional traffic engineer who generally represents developers. Any individual serving on the appeals board shall not be a person who participated in the decision being appealed, or who works for or is retained by a party to the appeal or a person who would be directly affected by the matter being appealed or the Proposed Project to which the appeal relates.

Subsection 2. Request/Notice.

The appeal shall be requested in writing within thirty (30) days of the decision of the COUNTY ENGINEER or Municipal Engineer, as applicable. The written request for the appeal shall state the grounds for objection. The appellant shall be given written notice of the date, time and place of the appeal board's consideration of the appeal. The appeal shall be limited to the issues raised in the objection.

Subsection 3. Hearing.

(A) Burden of Proof - The appellant shall present all relevant information to the appeals board. The appellant shall have the burden of affirmatively demonstrating that the decision of the COUNTY ENGINEER or Municipal Engineer was in error. The COUNTY ENGINEER or Municipal Engineer shall be entitled to present information.

(B) Reimbursement - Members shall serve without compensation but shall be reimbursed in accordance with County rules and regulations.

(C) Quorum - A quorum shall consist of three (3) members and a decision shall be made by affirmative vote of a majority of the members.

(D) Decision - The appeals board shall base its decision on the requirements of this section and accepted traffic engineering principles. It shall state the reasons for the decision. A decision shall be rendered within sixty (60) days of receipt of the written request for appeal.

Subsection 4. Appeal from Appeals Board.

The decision of the appeals board may be appealed by petition for writ of certiorari to the Fifteenth Judicial Circuit Court by either the Applicant or a Local Government within thirty (30) days of the decision. Consideration shall be limited to the record established before the appeals board.

Subsection 5. No Impairments of Judicial Rights or Remedies.

Nothing in this Section shall be construed as a limitation on the rights or remedies of any person. Appeals from decision of persons other than the County Engineer or Municipal Engineer, and traffic engineering decisions, shall be by appropriate action to a court of competent jurisdiction, except as provided otherwise by law, including this Section.

SECTION 15.(I) J - AFFORDABLE HOUSING.

Subsection 1. Applicability.

(A) Applicability. This Section 15.(I).J. applies to "Projects to Provide Affordable Housing." Income limits for purposes of this shall be as set forth in the Comprehensive Plan, Housing Element, using the median income as established by the U.S. Department of Housing and Urban Development, Subsection 8 Income Guidelines, West Palm Beach - Boca Raton - Delray Beach, Florida.

(B) Definition. Affordable housing shall be that housing where mortgage payments, taxes, insurance, and utilities on owner-occupied housing; and contract-rent and utilities on renter-occupied; is less than or equal to thirty percent (30%) of the applicable Adjusted Gross Income as described in the preceding paragraph.

Subsection 2. Eligibility. In order to be eligible for Traffic Concurrency Relief under this Section, a project must provide one of the following:

(A) 100 percent Very Low and Low Income Housing; or

(B) Mixed housing which enhances or balances the proportions of very low and low income and market-rate housing within the surrounding area as designated by a sector. A sector is defined in the Traffic Circulation Element of the comprehensive plan and is provided here for convenience. A sector is "...a geographic area that shall include and be relative to the size and location of the proposed development. It shall consist of one or more neighborhoods that contain a school, an integrated network of residential and collector streets bounded by arterial roads, civic uses, and localized shopping and employment opportunities. The sector will include a minimum of one census tract but shall not extend beyond important physical boundaries which may include a major arterial roadway or wildlife refuge."

(1) A mixed housing Project shall not exacerbate an existing imbalance of very low/low income housing opportunities within the sector of the proposed development, but shall achieve an economic balance of households, as measured by household income, within a designated sector and shall promote the following ranges of housing opportunities:

Very low (up to 50% of the median)	10 - 40%
Low (from 50% to 80% of the median)	10 - 40%
Moderate (from 80% to 120% of the median)	20 - 70%
Middle (from 120% to 150% of the median)	10 - 20%
High (over 150% of the median)	5 - 30%

Subsection 3. Application Review of Special Methodologies Projects.

(A) Submittal. An application shall be submitted, in duplicate, to the Planning Division to be considered for traffic concurrency under this Special Methodologies Section. the form of this application shall be prepared by the Planning Division, in coordination with the Commission on Affordable Housing.

(1) The application shall be reviewed for sufficiency by the Planning Division, and the applicant shall be notified of any deficiencies within five (5) working days of receipt of the application. Further processing of the application shall be suspended until the required items and information are provided.

(B) Review. The complete application shall be reviewed by both the Planning Division and the Commission on Affordable Housing staff who shall determine if a project qualifies as either a 100% very low and low Housing Project or a Mixed Housing Project.

(1) When determining whether a Project qualifies as a Mixed Housing Project, the staff shall consider the following factors:

(a) Whether or not the project complies with, at least, the minimum standards for a development of its size as identified in the traffic performance standards exemption criteria in the Traffic Circulation Element Policy 4-j of the Comprehensive Plan. This involves scoring a minimum number of points awarded relative to the Project"s size and development characteristics meeting certain performance standards, these standards include affordability, accessibility, quality of design, resource protection, environmental quality, neighborhood compatibility, safety, pedestrian and vehicular circulation, parking, open space, parks and landscaping.

(b) Whether the Project furthers the balance of housing opportunities within a sector by providing units which meet the minimum required housing in the very low, low and moderate categories determined by the existing percentage of very low, low and moderate income housing in that sector. The following table shows the proportions of households as described by income:

Income Category	Percent of Affordable Housing Existing Within a Sector and Minimum Very Low and Low Housing Required * **				
Very Low and Low	Existing	Under 20%	20-40%	40-50%	Over 50%
	Required	40%	30%	20%	10%
	Percent of Moderate Income Housing Existing Within a Sector and Minimum Moderate Housing Required				
Moderate and Above	Existing	Under 20%	20-60%	Above 60 %	
	Required	20%	10%	0%	

*The distribution of very low and/or low required in a project is 50% of each type of housing with the exception of projects with only owner-occupied units which shall be required only to provide low income units. These projects may fulfill the minimum requirement of very low and low income units with the provision of all low income units.

**Minimum percentages as applied to a number of units to be constructed will be rounded down to the nearest whole unit number or one unit, whichever is greater.

Note: The Commission of Affordable Housing, in conjunction with the Planning Division, shall identify and periodically update the criteria to be used for evaluating the appropriate mix of very low, low and other housing in a Project that is to be reviewed for compliance with the Special Methodologies provisions.Upon request, this information shall be made available to an applicant.

Subsection 4. Approval.

(A) If the Project is found to qualify as a 100% very low and low income housing development, the Planning Director shall notify the County traffic engineer that this Project does not need to meet the Level of Service Standards so long as the traffic impact from the project is less than or equal to 1% of the Average Daily Traffic Level of Service Dj Standard on any Link; provided however, that the cumulative traffic from 100% very low income housing does not cumulatively exceed 1% of Adopted Level at Service D Standard on any Link in any one year.

(B) In the event the Project is found to qualify as a Mixed Housing Project, the Planning Director shall notify the County Traffic Engineer that this Project need not meet the Level of Service Standards if the Project Traffic is less than or equal to 3% of the Average Daily Traffic Level of Service D Standard on any Link; provided however, that the cumulative traffic from Mixed Housing Projects on any Link does not exceed 3% of Adopted Level at Service D Standard.

(C) The relief provided under this special Methodology section shall be considered in determining whither or not there are adequate road facilities for this Project in accordance with Section 22 of this Code. In the event that is a determination of sufficiency, any Certificate of Concurrency reservation issued by the Planning Director for the Project must include a condition prohibiting the issuance of a Development Order until a covenant is recorded in the Public Records of Palm Beach County as outlined in the paragraph below.

(D) The applicant shall prepare a covenant approved by the Commission on Affordable Housing, determined to be legally sufficient by the County Attorney. The covenant, to be recorded in the public records of Palm Beach County, shall guarantee, for a period of at least fifteen (15) years for single family housing and fifteen years for multi-family housing rental units, how the affordability shall be maintained for units required to be very low and/or low income (pursuant to income categories and definitions of the comprehensive plan, Housing Element). The period of time these units will remain affordable shall commence from the date of the issuance of the final certificate of occupancy for the first required affordable unit built in the Project.The covenant shall be recorded in the Public Records of the Clerk of the Court for Palm Beach County prior to the submittal of an application for development approval.

Subsection 5. Municipal and Department Coordination.

(A) In the event that a Project being proposed is in part or wholly within a municipality, the Planning Director shall provide the appropriate officials of the city with the conditions upon which the Project is to receive traffic concurrency. The Planning Division shall coordinate with the municipal staff to insure that the issuance of certificates of occupancy for the required housing complies with the covenanted requirements and conditions.

(B) The Traffic Division shall be responsible for monitoring the exempted traffic under the Special Methodologies for the LOS standard for links impacted by the specific type, i.e. for 100 percent or mixed developments. The respective limits are 1 percent and 3 percent for any impacted link on the County's thoroughfare network. The Traffic Engineer shall determine whether the Project traffic, when added to all other existing approved Projects' traffic exempted under the Special Methodologies procedures, exceeds the limits for exempted volume for the 100 percent or the mixed housing development, whichever is appropriate.

(C) The Traffic Engineer shall inform the Planning Director, prior to the certification of the project at the Development Review Committee, when a Special Methodologies application has been approved for the traffic exemption from the applicable LOS standard. The Planning Director shall include this information in the review of an application for development certification at the Development Review Committee for a Project to be built in the unincorporated county.

(D) The Commission of Affordable Housing shall monitor the Project for compliance with the required covenant.

[Ord. No. 94-23]

SECTION 15.(I) K - CONSTRAINED FACILITIES.

Subsection 1. Purpose/Intent.

It is recognized by the Board of County Commissioners that some Links and Major Intersections are not planned to be widened to width, laneage, or geometrics that can accommodate Traffic from the density/intensity and location of land uses at the Generally-Adopted Level of Service. Links and Major Intersections which are improved (or presumed to be improved under Test 2) to their ultimate width, laneage, and geometrics as contemplated by the Thoroughfare Right of Way Protection Map are, by definition, Constrained Facilities. Which of those Constrained Facilities cannot accommodate future Development at the Generally Adopted Level of Service, and what should be done to remedy the situation, requires thorough study, comprehensive data, and close scrutiny of the various policies involved. This Section is intended to ensure thorough review of application for a constrained road at a lower Level of Service (CRALLS). It is declared to be the minimum review and procedure necessary to ensure an appropriate level of review.

Subsection 2. Procedure.

(A) General.

Constrained Facilities shall not automatically receive a reduced level of service. Determinations of whether a reduced level of service shall be set on a Constrained Facility, and what that Level of Service should be, shall be made by the Board of County Commissioners.

(B) Applications.

Applications for a reduced level of service on a Constrained Facility shall be made to the Board of County Commissioners through the Planning Director for initial review by the Land Use Advisory Board (LUAB), containing such information relating to the criteria of this section as the LUAB requires. The application shall be forwarded to all affected Local Governments, the County Engineer, the Florida Department of Transportation, District IV, in the case of State Highways, and the Metropolitan Planning Organization. The Metropolitan Planning Organization shall review the proposal for technical traffic engineering purposes and consistency with its adopted plan. The advice of the Metropolitan Planning Organization shall be considered by the LUAB and the Board of County Commissioners when considering an application for a reduced level of service. The application shall propose the reduced level of service sought for Test One and Test Two. It need not be an entire range.

The level of data and study needed for existing and future land use to review an application for a CRALLS designation shall be determined in the preapplication conference. The decision shall be made by the County Engineer based upon the Major Thoroughfare Links and Major Intersections involved, (whether they are or will be collectors, minor arterials, or principle arterials), the extent of the proposed lowering of the level of service, the size of the area affected, the extent to which the affected area is built out to its ultimate future land use, and the amount and quality of existing data and planning.

(C) Preapplication conference.

The applying Local Government shall contact the Planning Director prior to making application, notifying the Director of the Local Government's intent to make application under this Section 15.(I) K. The Director shall set a preapplication conference prior to accepting an application. The conference shall include representatives of the: (1) Local Government making application; (2) County including the Planning Division and County Engineering; (3) Florida Department of Transportation, District IV; (4) Treasure Coast Regional Planning Council; and (5) Metropolitan Planning Organization. The purpose of the preapplication conference shall be to identify the issues for consideration, the likely impact of the proposal, the assumptions and changes made in socio-economic data (including justification for such), the application requirements (including which should be waived, if any), and to coordinate review. The level of data and study needed for existing and future land use, and the proposed CRALLS, to review the proposed application shall be determined in the preapplication conference. The decision shall be made by the County Engineer based upon the magnitude of the proposed CRALLS, the difference from existing and future land use, the extent of the proposed lowering of the level of service, the amount and quality of existing data and planning, the size of the area affected, the extent to which the affected area is built out, and the Major Thoroughfare Links and Major Intersections involved (whether they are or will be collectors, minor arterials, or principal arterials).

(D) Sufficiency Review/Recommendation.

The review agencies shall have sixty (60) days within which to review the application for sufficiency and the Director shall notify the Local Government as to the specific deficiencies. The Local Government shall have sixty (60) days to provide the additional information or notify the Director that it is electing to withdraw its application. The application shall be reviewed by all agencies within sixty (60) days of the determination that the application is sufficient. The LUAB shall make its recommendation within six (6) weeks of receiving all agencies' reviews. The Board of County Commissioners shall take action on the application in accordance with Florida Statutes, Chapter 163 and Florida Administrative Rule 9J-5.

Subsection 3. Determination Criteria.

In determining whether a Constrained Facility shall have a reduced Level of Service and, if so, what that level of service should be, and any conditions that shall be imposed, the applicant, the Metropolitan Planning Organization, LUAB, and the Board of County Commissioners shall consider the following public policy criteria:

(A) Cause of the constraint; e.g., whether the laneage or geometrics are insufficient to accommodate projected traffic as a result of concerns relating to physical limitations, fiscal limitations, environmental areas, aesthetics, historically significant development, or the character-of-area or neighborhood and the impact of adding lanes or changing the geometrics on such concerns.

(B) When more than one cause is identified, the extent to which each contributes to the constraint shall be considered.

(C) Existence of, or proposed, "reliever" facilities and the proximity and continuity of such, and the extent to which they presently, or are projected to, relieve the Constrained Link.

(D) The existing and projected volume-to-capacity ratio given the adopted Future Land Use Elements of Local Governments' Comprehensive Plans, and the Countywide Future Land Use Element.

(E) The extent of vested Development Orders, and non-vested land use, zoning district designations, or Development Orders.

(F) The impact on the ability of Local Governments to allow Development consistent with their comprehensive plans; and the interjurisdictional compatibility of the various Local Government comprehensive plans as related to the Constrained Facility.

(G) The practicability of adjusting land uses, zoning districts, and uses therein.

(H) The impact on the ability of the overall Major Thoroughfare system in the area affected to function at the Generally Adopted Level of Service.

(I) The length of the Constrained Link(s).

(J) The option of modifying the Plan, including the Thoroughfare Right-of-Way Protection Map, or other regulations to add lanes, improve geometrics or reliever facilities.

(K) Whether modifications can be made that would add capacity, and how much capacity would be added.

Subsection 4. Determination.

The Board of County Commissioners may adopt a reduced level of service and shall specifically establish the level of service on the Constrained Link, if reduced. When the Board of County Commissioners makes a determination that a reduced level of service is appropriate on a Constrained Facility, it shall be designated a Constrained Road at a Lower Level of Service (CRALLS). The Comprehensive Plan shall be modified to set this level of service. A reduced level of service need not necessarily be a whole range; it may be a portion of a range. Any proposed reduction in the level of service on a State Constrained Facility shall be coordinated with and approved by the State in accordance with Florida law.

It is recognized that detailed and comprehensive transportation planning has not yet been completed for all of Palm Beach County. This transportation planning will involve balancing the transportation system to the land use as to density/intensity and location. This balancing will involve, in part, adjusting the levels of service on the Major Thoroughfare system. It will be achieved through the work of the Metropolitan Planning Organization's work in updating the Model, and improving the data. Theoretically, once this balancing is completed, the need for CRALLS would not be necessary, unless amendments to land uses are made, or right-of-way widths or lanes are reduced. Accordingly, once the system is balanced through the work on the Model and data, the criteria shall be revisited to ensure that the criteria take into account this balancing.

Subsection 5. Application to Modify or Eliminate Adopted Link or Intersection.

(A) Who may apply. Only a Local Government may apply to the Board of County Commissioners to amend the adopted width, proposed geometrics, or number of lanes of, or to eliminate a Link or Major Intersection improvements.

(B) Contents. The application shall contain a detailed and comprehensive traffic evaluation of all affected Links and Major Intersections, taking into account existing, committed, and future land use development.

(C) Criteria. The following criteria shall be considered by the Board of County Commissioners in considering whether a Link's lanes, proposed geometrics, a Major Intersection's proposed geometrics or the right-of-way width adopted in The Plan should be amended or a Link should be eliminated:

1. Whether improvements are proposed to the Link or Major Intersection under consideration.

2. Whether improvements are proposed to reliever Links or Major Intersections and the extent that such a reliever would impact traffic on the Link under consideration.

3. The physical characteristics of the property adjacent to the Link or Major Intersection under consideration.

4. The character of the area businesses or neighborhood adjacent to the Link or Major Intersection under consideration, and the extent of impact on such.

5. The projected cost of adding additional capacity to the Link or Major Intersection, or reliever facilities and the amount of capacity that would be added.

6. The existing and projected volume-to-capacity of the Link and the surrounding Major Thoroughfares before and after the proposed modification.

7. The projected revenue for improving the Major Thoroughfare system and the likely priority of various improvements to the Major Thoroughfare system.

8. Environmental character and the extent of impact on such.

9. Historical significance and the extent of impact on such.

10. Aesthetics and the extent of impact on such.

11. Amount of existing right of way, and cost to obtain additional right of way.

12. Impact on the provision of other public facilities.

(D) Procedure/extraordinary vote.

(1) When an application is made to eliminate a Link, narrow the adopted width of a Link, modify the proposed geometrics of a Link, or Major Intersection, in a manner that would reduce capacity, or reduce the number of lanes in the Plan, and that elimination, narrowing, modification, or reduction would materially impede: (1) the ability to achieve the Adopted Level of Service on the particular Link or Major Intersection, or the Major Thoroughfare system; or (2) the ability of Local Governments to allow Development consistent with their Future Land Use Elements of their Comprehensive Plans and the Countywide Future Land Use Element; the Board of County Commissioners shall require a review and determination of whether a reduced level of service (CRALLS designation) should be set on the Link or other Links before the Board of County Commissioner's eliminating the Link, narrowing the right-of-way width, modifying the proposed geometrics, or reducing the number of lanes. In such a case, eliminating the Link, narrowing the width or reducing the number of lanes shall require a majority-plus-one vote of the members of the Board of County Commissioners. No elimination of the Link, narrowing of the width, or modifying of the proposed geometrics in a manner that would reduce capacity, or reducing the number of lanes on a Link shall be effected until any necessary adjustments are made to: (1) the Major Thoroughfare system (including capacity improvements or lower the levels of service, as appropriate); (2) or the land uses have been made to accommodate the elimination, narrowing, modification, or reduction.

(2) If it is clear that no impediment to: (1) achieving the adopted level of service; or (2) Local Governments' allowing Development consistent with the Future Land Use Element of their Comprehensive Plans would result, the Board of County Commissioners may, by a majority vote of its members narrow the adopted width, modify the proposed geometrics of a Link, or Major Intersection, or reduce the number of lanes in the Plan without LUAB review. Nothing herein shall require CRALLS review, application to the LUAB, or notice to any Local Government for minor modifications to the proposed Major Thoroughfare system which do not reduce capacity of the Link, Major Intersection, or Major Thoroughfare System. Nothing herein shall require LUAB review for waivers of expanded intersection requirements or right of way protection pursuant to Policy 2-d of the Traffic Circulation Element of the Plan.

[Ord. No. 94-23]

SECTION 15.(I) L - COASTAL RESIDENTIAL EXCEPTION.

Subsection 1. Intent.

The Coastal Residential exception to the level of service requirements of this Section promotes urban infill and deters urban sprawl. It also promotes redevelopment. It provides closer proximity of residential uses to commercial uses and employment bases, thereby reducing the impact on the overall Major Thoroughfare system, pollution, the use of fossil fuels and other resources, and the travel time and needs of the public. Because it applies only to the incorporated area, it also promotes annexation of unincorporated areas. Therefore, the public benefits of an uncrowded and efficient road system promoted by this Section are also promoted generally (but not necessarily on a specific Link or Major Intersection) by the creation of a Coastal Residential exception to the level of service requirements of this Section. The Coastal Residential exception may also result in more integration in the Palm Beach County School system.

Subsection 2. Creation.

Because of these public benefits there is hereby established pursuant to Policy 4-h of the Traffic Circulation Element of the Plan a Coastal Residential exception which shall be within the Incorporated Area east of I-95, north of the Broward County line, west of the Atlantic Ocean (excluding the barrier island), and south and east of a boundary from I-95 along PGA Boulevard to Prosperity Farms Road, then north to the western prolongation of the northern boundary of Juno Isles, then each to a point six hundred feet (600') west of U.S. 1, then north to the northern boundary of Juno Beach, then east to the Atlantic Ocean. It shall also be the unincorporated area bounded on the south by the north boundary of the Jupiter Hospital, and its eastern and western prolongation between the Atlantic Ocean and Military Trail; bounded on the west by Military Trail and its northern prolongation to the North Fork of the Loxahatchee River, then meandering northwest along the northeast shore of the North Fork of the Loxahatchee River to the Martin County Line; bounded on the north by the Martin County Line; and bounded on the east by the Atlantic Ocean, excluding the barrier island. It shall allow such residential projects, and the residential portion of mixed use projects that otherwise meet the standards of this Section, in incorporated areas to receive a Site Specific Development Order notwithstanding the standards of this Section.

Subsection 3. Traffic Impact Study Information.

The Applicant shall submit a traffic study meeting the informational requirements of this Section.

Subsection 4. Municipal Levels of Service.

Nothing in this Section shall be construed as derogating the requirement under Chapter 163, Florida Statutes or Rule 9J-5, Florida Administrative Code that Municipalities set the Level of Service on County and State roads consistent with the County and State Level of Service to the maximum extent feasible.
[Ord. No. 93-4] [Ord. No. 94-23]

SECTION 15.(I) M - TRANSPORTATION CONCURRENCY MANAGEMENT AREAS (TCMA).

Subsection 1. Intent.

In order to further the implementation of identified important local and state planning goals and policies, this section provides for a Transportation Concurrency Management Area approach for ensuring that transportation facilities and services needed to support development are available concurrent with the impacts of that development. This Section is intended to be consistent with the applicable provisions of Rule 9J-5 of the Florida Administrative Code and Chapter 163, Part II of the Florida Statutes.

The purpose and intent of this section is to encourage planning for an appropriate mix and intensity of land uses within designated transportation concurrency management areas, and to target these areas to become primary centers for a mix of residential, retail, employment, recreational, cultural, educational, and institutional facilities. Successful use of the Transportation Concurrency Management Area approach will direct growth into development patterns that better support alternatives to single-occupant automobile transportation. It is recognized that achievement of development intensities and densities and mixed use patterns conductive to reducing dependency on single-occupant automobile travel may require a long-term strategy based on directing development into more intensive patterns coupled with and early and continued commitment to public transit and an accommodation and management of traffic congestion. Therefore, a long-term strategy may include use of a

level of service standards that are lower than required standards of this Section 15 as long as it can be demonstrated that long-term land use patterns and development and mobility goals are integrated, internally consistent and achievable.

Subsection 2. Criteria.

A Transportation Concurrency Management Area must ensure an adequate level of mobility and further the achievement of identified important local and state planning goals and policies. These include discouraging the proliferation of urban sprawl, encouraging the revitalization of existing downtowns or designated redevelopment areas, maximizing the efficient use of existing public facilities, protecting natural resources, protecting historic resources, and promoting public transit, bicycling, walking and other alternatives to the single-occupant automobile. These areas shall comply with the following criteria.

(A) A Transportation Concurrency Management Area shall be compatible with and further various elements of the local government comprehensive plan, including but not limited to the Traffic Circulation Element, Mass Transit Element, Land Use Element, and the Capital Improvement Element.

(B) A Transportation Concurrency Management Area shall contain or plan to contain an integrated and connected network of roadways and provide multiple, viable alternative travel paths and modes for common trips. Public transit service, transportation system management, and demand management programs shall also be provided or planned to be provided in the area.

(C) A Transportation Concurrency Management Area shall consist of geographically compact area, such as:

(1) Community Redevelopment Areas;
(2) Areas covered by an approved Downtown or Areawide Development of regional Impact;
(3) Regional activity centers designated in a comprehensive regional policy plan;
(4) Areas designated in a comprehensive regional policy plan as appropriate for increased Development of Regional Impact thresholds;
(5) Central Business Districts identified in a local government's Future Land Use Element;
(6) Compact areas served or proposed to be served by fixed rail or light rail facilities.

Subsection 3. Designation of an Interim Transportation Concurrency Management Area within the Unincorporated Area.

(A) Authority. The Board of County Commissioners shall have the authority to designate an Interim Transportation Concurrency Management Area within the Unincorporated Area by an amendment to the Comprehensive Plan provided it is consistent with the Comprehensive Plan. An Interim Transportation Concurrency Management Area shall be effective for a maximum period not to exceed thirty six months. Reduced level of service standards shall be effective during this time period.

(B) Duration. During the interim period, a Transportation Mobility Element shall be prepared. The Interim Transportation Concurrency Management Area shall become null and void and the level of service standard rescinded if a Transportation Mobility Element is not adopted within the thirty six month period.

(C) Limits. The Board of County Commissioners shall have the authority to impose limits on the amount of development allowed within an Interim Transportation Concurrency Management Area and impose conditions.

The conditions may include but not be limited to, status reports, roadway improvements, bikeway improvements, pathway improvements and amenities, parking requirements and access control.

Should the specific limits on the amount of permitted development be exceeded or the conditions not be performed in a timely manner, the Board of County Commissioners, by a majority vote, shall have the authority to revoke any interim TCMA, rescind any interim level of service standards, rescind any established development levels, and revoke any development orders or permits that have not yet been vested.

Subsection 4. Designation of an Interim Transportation Concurrency Management Area within Municipalities.

(A) Criteria. At least 90 days prior to the time a municipal governing body transmits a comprehensive plan amendment for an Interim Transportation Concurrency Management Area, the municipal governing body shall petition the Board of County Commissioners to establish interim level of service standards for roads which are not the responsibility of the municipality. The Board of County Commissioners shall have the authority to set, set with conditions or refuse to set interim level of service standards for all effected roadways and shall transmit the interim level of service standards to he municipal governing body at least 30 days prior to the transmittal public hearing. The interim level of service standards shall not become effective until the Florida Department of Community Affairs issues a notice of intent to find the municipal governments comprehensive plan amendment in compliance.

(B) Petition. The petition to the Board of County Commissioners shall include sufficient data and analysis to enable the establishment of interim level of service standards. The data and analysis shall include but not be limited to:

(1) The boundaries of the proposed Interim Transportation Concurrency Management Area.
(2) The existing and projected average annual daily traffic and peak hour traffic on effected roadways.
(3) Specific limits on development within the Interim Transportation Concurrency Management Area.
(4) The projected trips generation and trip distribution.
(5) The requested interim level of service standards.
(6) How the Interim Transportation Concurrency Management Area is consistent with the County's Comprehensive Plan.
(7) The schedule transmittal public hearing date.

(C) Determination. In determining whether to set an interim level of service standard, the Board of County Commissioners shall base its determination on the following criteria:

(1) Whether the Interim Transportation Concurrency Management Area is consistent with the County's Comprehensive plan
(2) Whether the data and analysis supports any requested interim level of service standards.
(3) Whether the requested level of service standard would unduly negatively impact the roadway network of any other jurisdictions.
(4) Whether the Interim Transportation Concurrency management Area has been coordinated with affected jurisdictions.

(D) Compliance. Upon receipt of proof that the municipal plan amendment designating an Interim Transportation Concurrency Management Area is in compliance, the Board of County commissioners shall amend the County's Comprehensive Plan at the next available comprehensive plan amendment round. The amendment will reflect the municipal Interim Transportation Concurrency management Area, the interim level of service standards and any conditions imposed by the Board of County Commissioners.

(E) Duration. The Interim Transportation Concurrency Management Area shall be effective for a maximum period not to exceed thirty six months. Reduced level of service standards shall be effective during this time period.

(F) Conditions. Interim level of service standards shall be adopted by a resolution of the Board of County Commissioners. The Board of County Commissioners shall have the authority to impose conditions upon the approval of any interim level of service standard, including but not limited to, monitoring and status reports, phasing requirements, roadway improvements, bikeway improvements, pedestrian and pathway amenities and improvements, parking requirements and improvements, and access controls. The Board of County Commissioners, by a majority vote, shall also have the authority to rescind any interim level of service standard for failure to comply with any conditions imposed.
[Ord. No. 94-23]

SECTION 15.(II) FIVE YEAR ROAD PROGRAM.

SECTION 15.(II) A - INTENT.

The Board of County Commissioners of Palm Beach County, Florida, finds that the 1990 Traffic Performance Code adopted by Section 15.(I) of this Ordinance is premised on the County's commitment to adhere to and implement the adopted Palm Beach County Five-Year Program Ordinance [referred to as "Five-Year Road Program" in this Section 15(II)] and the 1989 Palm Beach County Comprehensive Plan, as amended, [referred to as "Plan in this Section 15.(II)]. The County's failure to maintain its commitment to adhere to and implement its adopted Five-Year Road program as set forth in this Section 15 (II) shall result in a review and reconsideration of the adopted level of service contained in Section 15 (I) and in the Plan.

SECTION 15.(II) B - DESCRIPTION OF FIVE-YEAR ROAD PROGRAM.

The Five-Year Road Program was adopted by the Board of County Commissioners of Palm Beach County by Ordinance No. 85-40. In that ordinance, as amended, and in the Plan, the County adopted a reasonably attainable program of roadway construction for a five year period and matched the construction of projects with projected funding. Ordinance No. 85-40, as amended, further provides that prior to December of each year, the Commission shall consider the Ordinance to modify the list of projects to create a viable list of funded projects for the succeeding five years.

The modification to the Five-Year Road Program shall continue to include, at a minimum, a description of the Road project, the type of road construction required, and the amount of money to be spent each fiscal year for plan preparation, right-of-way acquisition, and actual construction.

SECTION 15.(II) C - MONITORING OF COUNTY'S ADHERENCE TO AND IMPLEMENTATION OF THE ADOPTED FIVE-YEAR ROAD PROGRAM.

Subsection 1. Generally.

The County's adherence to and the effectiveness of its implementation of the adopted Five-Year Road Program shall be monitored by the Independent Five-Year Road Program Oversight and Advisory Council. (Referred to as "Oversight and Advisory Council").

Subsection 2. Independent Five-Year Road Program Oversight and Advisory Council.

(A) Council - An Independent Five-Year Road Program Oversight and Advisory Council is hereby created and established, consisting of nine (9) members. One member shall be selected from each of the six (6) disciplines listed below so that all the disciplines are represented, and appointed by the Board of County Commissioners of Palm Beach County:

(1) construction management
(2) civil engineering
(3) operations research/systems analysis
(4) finance/certified public accounting
(5) economist
(6) legal or general business

Three members shall be selected from the general public; one from each of the following geographic areas:

(1) North Palm Beach County - bounded on the west by State Road 7 and a line being the projection north of the centerline of State Road 7; bounded on the south by Southern Boulevard.

(2) South Palm Beach County - bounded on the west by State Road 7 and on the north by Southern Boulevard.

(3) West Palm Beach County - bounded on the east by State Road 7.

The members shall be appointed at large by a majority vote of the County Commissioners, and shall be County residents. They shall serve (2) year terms; provided that the initial term only of the members from construction management, civil engineering, operations research/systems analysis, finance/certified public accounting, and North Palm Beach County shall be one (1) year. Any member missing three (3) consecutive meetings may be replaced by the Board of County Commissioners, with the new appointment filling the unexpired term of the member replaced.

(B) Purpose and Functions. The purpose of the Oversight and Advisory Council is to function both as a resource for both the County Engineer and the County Commission in matters of the Five-Year Road Program implementation; to detect potential problems with County road building programs; to recommend to the County Commission suggested corrective actions relating to any such problems so identified; to strengthen the confidence of the public and industry of Palm Beach County in the road transportation improvement program; to generally monitor whether there is adherence to the adopted level of service standards and the Five-Year Road Program schedule.

(C) **Activities.** To implement the functions stated in paragraph (B) above, the members of the Oversight and Advisory Council are directed:

(1) To aid in the review of the policies, procedures, and programs for use by the County Engineer for implementation of the Five-Year Road Program.
(2) To monitor whether the preparation of plans for road and bridge construction is on schedule.
(3) To monitor whether the preparation of plans for right-of-way acquisitions and abandonments is on schedule.
(4) To monitor the progress of road construction.
(5) To monitor the collection and expenditure of all road reviews, including impact fees.
(6) To monitor whether there is adherence to the adopted levels of service for the major thoroughfare system and the Five Year Road Program Schedule.
(7) To monitor the impact of this Ordinance on the level of development activity by comparison to other communities.
(8) To review and recommend funding sources, mechanisms, and mixes of funding to improve the major thoroughfare system.
(9) To perform such other duties as the County Commission shall direct; provided that the Oversight and Advisory Council shall not be involved in recommending changes to, or the adoption of, the annual Five Year Road Program or the management of the Engineering Department.

(D) Administration.

(1) The Office of the County Administrator shall provide such administrative staff and assistance as is required for the Council to perform its duties and functions.

(2) All County departmental directors shall cooperate with the Council to the fullest extent.

(E) Reports.

(1) The County Engineer shall submit a report by January 10, April 10, July 10 and October 10 each year to the Oversight and Advisory Council detailing the status of the County's implementation of its adopted Five-Year Road Program. This report shall contain a detailed report on the status of each project in the Five-Year Road Program, including the proposed commencement and completion dates of all programmed activities within each quarter of each fiscal year and the likelihood of meeting those dates.

(2) The Oversight and Advisory Council shall meet at least quarterly after receipt of the report of the County Engineer and shall submit a report by May 30, and November 30 of each year to the County Commission detailing its findings on the County's implementation of the adopted Five-Year Road Program, the general effectiveness of the County's road building efforts, and the other tasks contained in Subsection 2(C). The Oversight and Advisory Council may submit other reports to the County Commission regarding actual as opposed to planned performance and shall respond to other requests from the County Commission.

Subsection 3. Review of the Independent Five-Year Road Program Oversight and Advisory Council.

The need for, and tasks of, the Oversight and Advisory Council shall be reviewed approximately June 1, 1992 and every two (2) years thereafter.

SECTION 15.(II) D - MODIFICATION OF FIVE-YEAR ROAD PROGRAM.

Subsection 1. Semi-annual Modification of Five-Year Road Program.

The deletion of construction projects from the Five-Year Road Program may be done no more frequently than twice a year. For purposes of this Section 15 (II), "deletion of a construction project" shall mean the elimination of the construction project, the failure to let a road construction contract, the removal of or failure to establish funding of the construction project, the material reduction in the scope of work or funding (as it affects the construction project), or the postponement of the construction project in the Five-Year Road Program for more than two years beyond the year the construction was originally programmed in the 1988-92 Five-Year Road Program or in the Five-Year Road Program in which the construction was first added after 1987. It does not include delays associated with right-of-way acquisition as a result of judicial decision, redesign after the contract has been let, construction, or other delays not under the control of the County.

Subsection 2. Finding Required Prior to Deleting Projects in the Adopted Five-Year Road Program.

Prior to approving the deletion of any construction project from the County's Five-Year Road Program, the County Commission must find; 1) that the deletion of the construction project will not result in any link or intersection on the road network operating at greater than the Adopted Level of Service as defined in this Ordinance if such link would not have operated at greater than the Adopted Level of Service as defined in this Ordinance had the project been constructed as originally programmed in the adopted Five-Year Road Program; and 2) that no project which was approved and phased based upon such ASSURED CONSTRUCTION would be denied BUILDING PERMITS because of the deletion of the construction. If both findings can be made, then the construction project may be eliminated by a majority vote except, if the project is in the current fiscal year, in which case a majority plus one vote is required. If only the second (2nd) finding can be made, then a project not in the current fiscal year could be deleted by a majority plus one vote. However, in no case may a project be deleted when the second (2nd) finding cannot be made.

SECTION 15.(II) E - STANDARDS REQUIRING FINDING THAT COUNTY IS ADHERING TO AND IMPLEMENTING ITS ADOPTED FIVE-YEAR ROAD PROGRAM.

Concurrent with the adoption of the annual Five-Year Road Program, the Board of County Commissioners shall determine whether the County has adhered to and implemented its Five-Year Road Program. In order to make the determination that the County had adhered to and implemented its adopted Five-Year Road Program, the County Commission must find the following based upon substantial competent evidence:

(A) Funding - The amount of funding of the current fiscal year of the Five-Year Road Program is, at a minimum, as contemplated in the Plan and the Five-Year Road Program.

(B) New Fifth Year - The new fifth year being added to the Five-Year Road Program with projects added to the Five-Year Road Program at a rate contemplated in the Plan.

(C) Projects on Schedule - Fewer than twenty percent (20%) of the programmed road construction projects (on a line item basis) from the preceding fiscal year over which the County has control are more than twelve (12) months behind schedule.

SECTION 15.(II) F - EFFECT OF FAILURE OF COUNTY TO ADHERE TO AND IMPLEMENT ITS ADOPTED FIVE-YEAR ROAD PROGRAM.

If the County Commission does not continue to fund the Five-Year Road Program in accordance with the Plan, or does not continue to add projects to the Five-Year Road Program at a rate contemplated in the Plan, as corrected, updated, or modified as permissible in F.S. §163.3177(3)(b); or construction projects consisting of twenty (20) percent or more of the programmed construction projects (on a line item basis) from the preceding fiscal year over which the County has control are more than twelve (12) months behind schedule as determined after the effective date of this Section, above, the Board of County Commissioners shall review the adopted level of service to determine whether it is realistic, adequate, and financially feasible.

SECTION 15.(II) G - METHOD OF PRIORITIZING THOROUGHFARE IMPROVEMENTS.

County shall undertake data collection and review of such regarding Major Intersection capacity and Peak Hour Link capacity, along with AADT capacity. It shall use this information in programming Major Thoroughfare system improvements in the Five-Year Road Program.

The objective shall be to effectively spend available funds so as to maximize capacity, balancing the amount of capacity added, the cost of improvements, the time the improvements will be utilized, and the "expandability" of those improvements to the ultimate section of road. Volume to AADT capacity ratios shall be the preliminary criterion for prioritizing funding of improvements. Due consideration shall be given to the amount of area opened up for development as a result of the various improvements. Deferral or elimination of Link improvements made unnecessary as a result of: (1) other Major Thoroughfare system improvements, such as intersection improvements; or (2) refined capacity analysis, shall not be considered the deletion of a road improvement, unless the deletion is of a project scheduled for construction of the first year of the Five-Year Road Program or was scheduled for construction in the first year of a previous Five-Year Road Program. When evaluating whether a particular improvement should be deleted from the Five-Year Road Improvement Program, due consideration shall be given to previous reliance of improvements scheduled in the Five-Year Road Program.

In addition, the analysis shall identify improvements to relieve traffic demands on all deficient facilities which are not included in the Five-Year Road Program. The County shall estimate traffic volumes to be on the roadway network at the end of the last year in the Five-Year Road Program and determine what additional improvements will be needed to meet those future traffic demands. These plans will be developed initially in 1991 and presented to the Board of County Commissioners annually in conjunction with the review and approval of the Five-Year Road Program, beginning in 1992. Consideration will be given to staging improvements by constructing intersection improvements or other spot roadway improvements such that maximum roadway system and funding efficiency are achieved. These improvements shall be included in the analysis but will not be required to be identified for construction in a certain year.

[Ord. No. 93-4; February 2, 1993] [Ord. No. 93-17; July 20, 1993] [Ord. No. 94-23; October 4, 1994] [Ord. No. 95-8; March 21, 1995]

ARTICLE 16

HEALTH DEPARTMENT REGULATIONS

TABLE OF CONTENTS

ARTICLE 16
HEALTH DEPARTMENT REGULATIONS

SEC. 16.1 ON-SITE DISPOSAL SYSTEMS – (ENVIRONMENTAL CONTROL RULE I) 1
A. Purpose and intent 1
B. Applicability 1
C. Adoption of Chapter 10D-6, F.A.C. 1
D. General provisions 1
1. Approved systems required 1
2. Containment of wastes 1
3. Central collection of waste 1
4. Industrial and commercial wastewater 1
5. FDER approval 2
6. Existing systems 2
7. Modification of existing systems 2
8. Discontinuance 2
9. Abandonment 2
10. Responsibility for inspection 2
E. Prohibited activities 3
1. Prohibitions on the use of on-site systems 3
2. Other prohibited activities 4
F. Permits and approvals 4
1. General 4
2. Applications for a single lot or parcel 5
3. Applications for subdivisions 6
4. Approval standards 7
G. Design and construction standards 11
1. Design flows 11
2. Septic tank capacity 14
3. Laundry waste systems 14
4. Drainfield absorption area 15
5. Drainfield system construction standards 16
6. Treatment receptacles 20
7. Construction materials for treatment receptacles 21
8. Grease trap 22
9. Laundry waste interceptor 23
10. Portable toilets 23
11. Alternative systems 24
H. Percolation tests 24
I. Collection, treatment and disposal of septage 25
J. Maintenance 27
K. Appeals 27
1. Fee 27

2. Application submittal requirements . . . 27
3. Information required for an appeal for an individual lot . . . 27
4. Information required for an appeal for a subdivision . . . 28
5. Requirements . . . 30
6. Hearing . . . 30
7. Due Process . . . 30
8. Rights . . . 30
9. Environmental Appeal Board . . . 30
10. Findings . . . 30
11. Granting . . . 31
12. Conditions . . . 32
13. Change in facts . . . 32
14. Termination . . . 32
15. Decision . . . 32

L. Inspections . . . 32
M. Violations, penalties, enforcement . . . 32

SEC. 16.2 WATER SUPPLY SYSTEMS – (ENVIRONMENTAL CONTROL RULE II) . . . 33
A. Purpose and intent . . . 33
B. Applicability . . . 33
C. General provisions . . . 33
1. Water service required . . . 33
2. Connections required . . . 33
3. Review for approval . . . 34
4. Fees . . . 34
5. Adoption of state standards . . . 34
D. Procedures . . . 34
1. Construction permits . . . 34
2. Approval of water systems . . . 35
E. Water quality standards . . . 36
1. Maximum microbiological contaminant levels . . . 36
2. Primary inorganic chemical contaminant levels . . . 37
3. Primary organic chemical contaminant levels . . . 38
4. Drinking water turbidity contaminant levels . . . 38
5. Maximum radionuclides contaminant levels . . . 38
6. Secondary inorganic chemical maximum contaminant levels . . . 39
7. Trihalomethane . . . 40
8. Total trihalomethanes . . . 40
9. Volatile organics . . . 40
10. Synthetic organics . . . 40
F. Water monitoring requirements . . . 41
1. Microbiologicals and chlorine residual monitoring . . . 41
2. Primary inorganic chemicals monitoring . . . 44
3. Primary organic chemical monitoring . . . 44
4. Physical contaminants monitoring . . . 45
5. Radionuclide monitoring in community systems . . . 45
6. Secondary inorganic contaminants monitoring in community systems . . . 46

7. Trihalomethanes, volatile organics and synthetic organics monitoring 46
8. Microbiological and chlorine residual monitoring in consecutive community and non-community systems 47
9. Raw water monitoring for volatile and synthetic organics in community systems 47
10. Raw water monitoring in community and noncommunity systems 47

G. Sampling and analytic methods 47
1. Sampling procedures 47
2. Certified laboratories 47
3. Methods of analysis 47

H. Reporting 48
1. Reporting period 48
2. Report contents 48
3. Plant operation reports 48
4. Inorganic chemicals 48
5. Primary organic contaminants 48
6. Turbidity 48

I. Notification 49
1. Notification of users 49
2. Notification of PBCPHU 49
3. Notification of noncompliance 49
4. Signs 50
5. Potential water quality dangers 50
6. Loss of water or water pressure 50

J. Design and construction requirements 51
1. Lead 51
2. Number of wells and pumps 51
3. Licensing of contractors 51
4. Vertical well casings 52
5. Community, non-community and non-transient noncommunity wells and on-site disposal systems 52
6. Semi-public wells and on-site sewage disposal systems 52
7. Private wells and on-site sewage disposal systems 52
8. Separation of wells from other possible contaminant sources 52
9. Construction of semi-public and private wells 52
10. Waste collection and transmission lines 52
11. Post-construction reporting 52
12. Protective fencing 52
13. Cones of influence 53
14. Closure of abandoned wells 53
15. Emergency power systems 53
16. Reserve chlorine supplies 53
17. Disinfection 53
18. Water treatment plant and storage 54
19. Distribution 54
20. Backflow prevention 55

K. Operation and maintenance 55

1. Community, non-community and non-transient non-community water supply systems 55
2. Community, non-community, and non-transient non-community water supply systems 56
L. Emergency operation 57
1. Interconnections 57
2. Flushes, hydrants, taps and other emergency provisions 57
M. Appeals 57
1. Fee 57
2. Notice of appeal 58
3. Notice to property owner 58
4. Hearing 58
5. Rules of evidence 58
6. Rights 58
7. Environmental Appeal Board 58
8. Appeals 58
9. Relief 59
10. Conditions and safeguards 59
11. Change in facts 59
12. Termination of relief 59
13. Decision 59

N. Violations, penalties, enforcement and inspections 60
1. Violations and penalties 60
2. Inspections 60

SEC. 16.3 PROHIBITION OF DUMPING, REGULATION OF WASTE DISPOSAL AND CLEAN FILL 60
A. Purpose and Intent 60
B. Applicability 60
C. Exemptions 60
D. Prohibition for Dumping and Placing Waste 61
E. Regulation of Clean Fill Activities 61
1. Prohibitions of Clean Fill Activities 61
2. Notification of Clean Fill Activities 62
F. Enforcement, Penalties, Circuit Court Proceedings 63
1. Enforcement 63
2. Penalties 63
3. Circuit Court Proceedings 63

SEC. 16.1 ON-SITE DISPOSAL SYSTEMS -- (ENVIRONMENTAL CONTROL RULE I)

A. **Purpose and intent.** The purpose and intent of this section is to establish minimum standards for on-site sewage disposal systems used for treatment and disposal of domestic sewage flows of five thousand (5,000) gallons per day and less.

B. **Applicability.** The regulations of this section shall apply throughout the total area of Palm Beach County. No on-site sewage disposal system shall be installed, modified, repaired or used without first obtaining a permit or required approval from the PBCPHU pursuant to this section. No municipality or political subdivision of the State, including Palm Beach County, shall issue a building or plumbing permit for any building requiring the use of an on-site sewage disposal system unless the owner or builder has received a permit for such system from the PBCPHU.

C. **Adoption of Chapter 10D-6, F.A.C.** Chapter 10D-6, F.A.C., and all amendments thereto, are hereby incorporated into this section. In the event of a conflict between the provisions of Chapter 10D-6, F.A.C. and this section, the more restrictive provision shall apply.

D. **General provisions.**

1. **Approved systems required.** Buildings used or intended for human occupancy, employment or service to the public and locations where persons congregate shall provide toilets connected to an approved sewage waste disposal system. Also, property or locations where persons congregate and are employed, or where property is used by the public for temporary and short periods of duration, such as construction sites, fairs, carnivals, revivals, field locations of agricultural workers, encampments or other use, shall be provided with portable toilets or other approved toilet facilities. The number of toilet facilities to be provided shall be in accordance with the local plumbing code, other applicable local regulations and the F.A.C. No building or premises shall be occupied, sub-let or leased unless provided with an approved sewage disposal system.

2. **Containment of wastes.** Sewage wastes and effluents from an on-site sewage disposal system shall not be allowed to surface onto the ground and shall not be discharged into or permitted to enter streams, surface waters, underground aquifers, ditches or drainage structures.

3. **Central collection of waste.** Total waste flow from any one (1) establishment, whether a single structure or group of structures, shall be centrally collected for treatment and disposal.

4. **Industrial and commercial wastewater.** Wastewater generated by industrial or commercial establishments shall not be discharged into an on-site sewage disposal system if the characteristics of the waste are such that it would cause malfunctioning of the on-site sewage disposal system and/or contamination of the ground water. Wastewater from such establishments shall be treated and disposed of in accordance with FDER requirements.

5. **FDER approval.** Treatment and disposal of the wastewater from a building or establishment shall be in compliance with FDER standards and rules when any one (1) of the following conditions exist:

   a. The volume of domestic sewage from an establishment exceeds five thousand (5,000) gallons per day. Sec. 16.1.G.1 shall be used for determining the total daily sewage flow from an establishment located on one (1) or more parcels of land.

   b. Sewage or wastewater contains industrial, toxic or hazardous chemical waste.

   c. The district designation of an area is industrial or manufacturing use, or its equivalent, and the use of the system may be for disposing of wastes which are not domestic wastes.

6. **Existing systems.** Any existing and previously approved system which remains in satisfactory operating condition shall remain valid for use under the terms of this section, and the environmental control rule and permit under which it was approved. If the use of a building is changed or if additions or alterations to a building are made which will increase sewage flow or change sewage characteristics, any on-site sewage disposal system serving such building shall be upgraded to comply with the provisions and requirements of this section.

7. **Modification of existing systems.** Any on-site sewage disposal system used for disposal of domestic sewage which is designed, constructed, installed, or modified after March 14, 1988 shall conform to the minimum requirements and provisions of this section. Should an emergency or epidemic occur, the PBCPHU may approve temporary systems for waste disposal which may differ from standards set forth in this section, as long as the PBCPHU supervises the operation of the temporary system.

8. **Discontinuance.** Any existing on-site sewage disposal system installed under previous rules and regulations which becomes non-conforming with this Section for conditions or purposes as approved, and which has not been placed in use for a period of one (1) year or more, shall be deemed unapproved and its use for such purpose prohibited.

9. **Abandonment.** Whenever an approved sanitary sewer is made available under the conditions set forth in Sec. 16.1.E.1.a (sanitary sewer system available), any on-site sewage disposal system shall be abandoned and the sewage wastes from the residences or building discharged to the sanitary sewer within ninety (90) calendar days thereafter. When use of an on-site sewage disposal system is discontinued, it shall be abandoned and its further use for any purpose prohibited. An abandoned septic tank shall be (a) pumped out, (b) the bottom suitably opened or ruptured so as to prevent the tank from retaining water, and (c) filled with clean sand or other suitable material, the actions being taken in the order listed.

10. **Responsibility for inspection.** It shall be the duty of the PBCPHU to conduct such technical inspections as are reasonable and necessary to determine compliance with the provisions of this section.

E. Prohibited activities.

1. **Prohibitions on the use of on-site systems.** An on-site sewage disposal system shall not be permitted in any of the following instances.

a. **Sanitary sewer system available.** On-site sewage disposal systems shall not be permitted where an existing sanitary sewer is available. A municipal or investor-owned sewerage system shall be deemed available for connection if the following conditions exist:

(1) The system is not under a FDER moratorium, and the sewage system has adequate hydraulic capacity to accept the quantity of sewage to be generated by the proposed establishment; and the existing sewer line is within the following distance from the property:

(a) For estimated sewage flows of six hundred (600) or less gallons per day, the sewage system shall be considered available if a sewer line exists in a public easement or right-of-way which abuts the property or is within one hundred (100) feet of the property and if gravity flow can be maintained from the building drain to the sewer line.

(b) For estimated sewage flows greater than six hundred (600) gallons per day to twelve hundred (1,200) gallons per day, if a sewer line, gravity or force main exists in a public easement or right-of-way which is within one hundred (100) feet of the property.

(c) For estimated sewage flows greater than twelve hundred (1,200) gallons per day to twenty-five hundred (2,500) gallons per day, if a sewer line, gravity or force main exists in a public easement or right of way which is within five hundred (500) feet of the property.

(d) For estimated sewage flows greater than twenty-five hundred (2,500) gallons per day to five thousand (5,000) gallons per day, if a sewer line, gravity or force main exists in a public easement or right of way which is within one thousand (1,000) feet of the property.

b. **Subject to frequent flooding.** On-site sewage disposal systems shall not be permitted where the property is located in an area that is subject to frequent flooding, or where the approved drainage has not been constructed in accordance with the requirements of the South Florida Water Management district and/or the DEPW.

c. **Unapproved drainage features.** On-site sewage disposal systems shall not be permitted for lots in a subdivision where the approved drainage has not been constructed in accordance with the requirements of the SFWMD and/or the DEPW.

d. **Treatment and disposal of industrial wastes.** On-site sewage disposal systems shall not be permitted for treatment and disposal of industrial wastes as defined in this section.

e. **Commercial food establishments.** On-site sewage disposal systems shall not be permitted for commercial establishments where food is processed, handled, prepared or served. This restriction does not apply to retail or prepackaged food stores and to convenience stores where food service is limited to coffee, soft drinks and hot dogs.

2. **Other prohibited activities.**

   a. **Privies.** It is prohibited for any person to construct, keep, use or maintain a privy from which human waste is deposited on the surface of the ground or over waters of the State.

   b. **Sale and installation of unapproved systems.** No person shall manufacture, sell or install an on-site sewage disposal system unless in compliance with the requirements of this section.

   c. **Drainage into cesspools or dry wells.** It is prohibited to drain sewage wastes or septic tank effluent into cesspools or dry wells as means of disposal.

   d. **Organic chemical solvents.** Organic chemical solvents shall not be advertised, sold or used in the county for the purpose of degreasing or declogging on-site sewage disposal systems.

F. **Permits and approvals.**

1. **General.** An on-site sewage disposal system shall not be installed, modified or repaired until a valid permit has been obtained from the PBCPHU.

   a. **Expiration.** Permits issued for new construction shall expire after one (1) calendar year from the date of issuance if the system has not been installed. However, if building construction has commenced, the system construction permit shall be extended ninety (90) calendar days beyond the one (1) year expiration date.

   b. **Conditions.** If the PBCPHU determines that the disposal of certain wastes into the on-site sewage disposal system may interfere with the proper functioning of the system, the PBCPHU may specify on the permit those conditions that are appropriate for the proper functioning of the system. Upon request of the PBCPHU, the permit and conditions shall be recorded in the public records of Palm Beach County at the permittee's expense.

   c. **Inspections.** The on-site sewage disposal system shall not be used or covered with earth before it has passed an inspection by the PBCPHU and a notice of approval has been issued. Should the installer or general contractor fail to notify the PBCPHU prior to covering the system, the PBCPHU shall require that the system be uncovered for inspection. If the system is approved, the PBCPHU shall issue a notice of approval to the owner and, when appropriate, to the Building Department. A building or structure shall not be occupied until a notice of approval has been issued by the PBCPHU.

2. **Applications for a single lot or parcel.** The application and supporting data required for approval of an on-site sewage disposal system for a single lot or parcel of property shall be submitted to the PBCPHU by the owner or his authorized representative.

   a. **Submittal requirements.** The application form shall be submitted together with the following:

      (1) A site plan with the property drawn to scale, showing the following:
         (a) Property boundaries with dimensions;
         (b) Easements;
         (c) Location of all existing and proposed buildings;
         (d) Location of all wells;
         (e) Location and layout of treatment receptacle and drainfield;
         (f) Unobstructed area available for the installation of the on-site sewage disposal system;
         (g) Potable water lines;
         (h) Driveways;
         (i) Parking areas;
         (j) Walkways;
         (k) Stormwater drainage system;
         (l) Surface water such as ponds, lakes, streams, ditches, canals or wet areas;
         (m) Location and elevation of percolation test and soil profile;
         (n) Location of wells, on-site sewage disposal facilities or other pertinent features on adjacent properties if the features are within two hundred (200) feet of the applicant's lot; and
         (o) The presence of any marsh area, mangroves, cypress and wetland vegetation on the property or on adjacent properties.
      (2) In cases where there is a drastic variation in the elevation of the lot, a topographical map of the property must be submitted.
      (3) At least one (2) soil profile delineating the textural classification of the native soil within the soil absorption area to a minimum depth of six (6) feet in accordance with USDA Soil Classification Methodology. The PBCPHU may require more than two (2) soil profile on isolated lots where a subdivision approval has not been granted as required under Sec. 16.1.F.3, or where marginal soils, sloping terrain or location problems are anticipated.
      (4) The results of at least one (1) percolation test conducted in the area of the proposed drainfield. When the soil conditions in the general area of the lot are highly variable, a minimum of three (3) percolation tests that are uniformly spaced shall be conducted. A percolation test is generally not required for a single-family residence, but the PBCPHU may request that the test be performed when the soils are moderately or severely limited.
      (5) The existing water table elevation and the estimated wettest season water table elevation.

   b. **Responsibility for information.** The owner shall be held responsible for all information supplied to the PBCPHU. The application and supporting data serve as the basis for the issuance of a construction permit. In the event of a change in any material fact given in the application which served as a basis for issuing a construction permit, the owner shall immediately file an amended application detailing such changed conditions. If the new conditions are in compliance with the standards in this section, the construction permit shall be amended. If the new conditions are not in compliance with the standards of this section, the permit shall be revoked.

c. **Preparation of information.** The supporting data must be prepared by an engineer registered in the State of Florida. When fill soils are used, they shall be classified by a certified soils engineering testing laboratory registered in the State of Florida or registered professional engineer trained in soil science, using USDA Classification Methodology.

d. **Documentation of exemptions.** If the application is for a lot that is exempt under Sec. 16.1.F.4.1, documentation shall be submitted to substantiate the existence of the lot prior to January 1, 1972. Documentation shall be in the form of:

(1) A survey, map, plat or drawing prepared by a land surveyor licensed in the State of Florida;
(2) A survey, map, plat or drawing registered with the Department of Business Regulation, Division of Land Sales;
(3) A property tax receipt;
(4) A deed; or
(5) An agreement for deed.

3. **Applications for subdivisions.** The application and supporting data required for approval of the use of on-site sewage disposal systems for a subdivision shall be submitted to the PBCPHU by the owner or his authorized representative.

a. **Submittal requirements.** The supporting data must be prepared by a professional engineer registered in the State of Florida and shall include:

(1) A plan of the subdivision clearly drawn to scale, showing lot and block arrangements, lot dimensions with all lots numbered and net area of each lot;
(2) A topographical map with contour interval to indicate surface configurations, including slopes, streams, or water courses, bodies of water, low, wet, or marshy land, and lots on which any fill is to be made;
(3) A general site location map for reference identification of the area;
(4) The proposed drainage plans certified by the preparer as being in compliance with existing district drainage plans as approved by the local drainage authority and the SFWMD;
(5) SFWMD staff report and permit for the proposed drainage system;
(6) The results of a representative number of percolation tests for at least ten (10) percent of the number of lots;
(7) The natural soil profile delineating soil classification to a depth of six (6) feet for a representative number of test sites for at least ten (10) percent of the number of lots; the classification shall be in accordance with the USDA Soil Classification Methodology and conducted by a certified soils testing laboratory registered in the State of Florida;
(8) Water table elevations as existing and for the wettest season, based on N.O.S. or M.S.L. datum;
(9) All dedicated right-of-way or recorded easements proposed for use in the installation of on-site sewage disposal or water system; and
(10) If private wells are to be used, evidence that the groundwater is of satisfactory quality and is not threatened by a source of contamination.

4. Approval standards. In considering applications for construction of on-site sewage disposal systems, the PBCPHU shall be governed by the following standards.

   a. **Lot area.** The lot, unless exempt under Sec. 16.1.F.4.1, shall have a minimum net usable land area of:

      (1) one-half (½) acre if the water supply is by means of a community well; or
      (2) One (1) acre if the water supply is by means of an on-site well.

   b. **Drainfield invert.** The drainfield invert shall be a minimum of thirty (30) inches above the wettest season water table elevation.

   c. **Location and setbacks.**

      (1) With respect to groundwater movement, system locations shall be downstream from water supply wells when practical. Systems shall be placed no closer than the minimum distances indicated for the following, except for lots addressed under Sec. 16.1.E.1.a(1)(a), 1.F.4.n:
         (a) Seventy-five (75) feet from a private well, as defined in Article 3;
         (b) One hundred (100) feet from a non-community well for an establishment having a projected sewage flow of not more than two thousand (2,000) gallons per day or a semi-public well, as defined in Article 3;
         (c) Two hundred (200) feet from a community well or from a non-community well, as defined in Article 3, for an establishment having a projected sewage flow of more than two thousand (2,000) gallons per day; and
         (d) Fifty (50) feet from a non-potable water well, as defined in Article 3.
      (2) Systems shall not be located under buildings or within five (5) feet of building foundations, including pilings for elevated structures, or within five (5) feet of property lines except where property lines abut utility easements which do not contain underground utilities, or where recorded easements provide for the installation of systems for service to more than one (1) lot or property owner. The system shall not be located within ten (10) feet of potable water lines unless such lines are encased in at least six (6) inches of concrete or lines are placed within a sleeve of similar material pipe to a distance of at least ten (10) feet from any part of the drainfield.
      (3) On-site sewage disposal systems shall be located not less than seventy-five (75) feet from the high water line of lakes, streams, canals, or other waters, except in case of lots addressed under Secs. 16.1.F.4.1 and 16.1.E.1.a(1)(a), 1.F.4.n. This requirement also applies to the design high water level of drainage structures and storm water retention areas serving more than two (2) lots. This requirement does not apply to swales which are designed to contain water for less than twenty-four (24) hours after a rainfall event. Systems shall be located a minimum of fifteen (15) feet from design high water level of normally dry individual lot storm water retention areas and swales.
      (4) The site of the installation and the additional required unobstructed land shall not be subject to saturation from sources such as artificial drainage of ground surfaces, driveways, roads or roofs.

d. **Drainfields.** Suitable, unobstructed land shall be available for the installation and proper functioning of drainfields. The minimum unobstructed area shall be:

(1) At least two (2) times as large as the drainfield area required by Sec. 16.1.G;
(2) Contiguous to the drainfield; and
(3) In addition to the setbacks required in Secs. 16.1.F.4.c(1), (2) and (3) above.

e. **Placement in fill.** Standard subsurface systems shall not be installed in fill material unless such fill has been allowed to settle for a period of at least six (6) months, or has been compacted to a density comparable to the surrounding natural soil.

f. **Fine soil.** To prevent soil smear and excessive soil compaction, drainfields should not be installed while a fine texture soil is wet above the soil's plastic limit. Soils with textures finer than sand, loamy sand and sandy loam are considered fine texture soils.

g. **Lot elevation.** The final lot elevation at the site of the proposed system installation and the additional unobstructed land shall not be subject to frequent flooding. The drainfield shall not be subject to flooding based on ten (10) year flood elevations. Flood elevations may be obtained from the U.S. Department of Agriculture Soil Conservation Service, SFWMD or the Federal Emergency Management Agency.

h. **Effective soil depths.** The effective soil depth throughout the drainfield installation area shall extend forty-two (42) inches or more below the bottom of the drainfield.

i. **Sewage loading capacity.** The maximum sewage loading (gallons/acre/day) shall be based on the following standards, except in the case of lots addressed under Secs. 16.1.F.4.m and 16.1.E.1.a(1)(a), 16.1.F.4.n:

(1) Twenty-five hundred (2,500) gallons per acre per day for lots served by a community well;
(2) Fifteen hundred (1,500) gallons per acre per day for lots served by on-site wells.

Contiguous unpaved and non-compacted road right-of-ways, and easements with no subsurface obstructions that would affect the operation of drainfield systems, shall be included in total lot size calculations. Where an unobstructed easement is contiguous to two (2) or more lots, each lot shall receive its pro rata share of the area contained in the easement. Streams, lakes, drainage ditches, marshes and other such bodies of surface water shall not be included in total lot size calculations. Sec. 16.1.G.1 shall be used for determining average daily domestic sewage flows for non-residential establishments. For residences and residential establishments average daily sewage flow calculations shall be based on Table 16.1-1. Where the number of bedrooms indicated on the floor plan and the corresponding heated or cooled area of a dwelling unit in Table 16.1-1 do not coincide, the standards which will result in the greatest estimated sewage flow shall apply.

TABLE 16.1-1
RESIDENTIAL SEWAGE FLOW CALCULATIONS

No. Bedrooms/Heated or Cooled Area per Dwelling Unit	Gallons of Sewage Flow per Day per Dwelling Unit
1 Bedroom/750 sq. ft. or less	150
2 Bedrooms/751-1,200 sq. ft.	250
3 Bedrooms/1,201-2,250 sq. ft.	350
4+ Bedrooms/2,251-3,300 sq. ft.	450

Each additional bedroom or each additional seven hundred fifty (750) square feet shall increase estimated sewage flows by one hundred (100) gallons per dwelling unit.

j. **Design and size standards.** The actual design and size of on-site systems to serve non-residential establishments and residences shall be based on requirements found in Sec. 16.1.G.1.

k. **Mound system.** A mound system may be used to overcome certain unfavorable site conditions such as seasonal high water table, shallow permeable soil overlying slowly permeable soil and shallow permeable soil located over creviced or porous bedrock.

l. **Lot size exemptions.** Parcels or tracts of land which were legally described on a deed, agreement for deed, survey, map, plat or drawing prior to January 1, 1972 or were part of the records of the Palm Beach County Tax Assessor's Office prior to January 1, 1972 shall be exempt from the lot size requirements of Sec. 16.1.F.4 as long as a conditional use has not been granted or an amendment to the Official Zoning Map has not been made; provided, however, that neither an amendment to the Official Zoning Map which does not increase the permitted residential density of units on the parcels or tracts nor an amendment to the Official Zoning Map initiated by action of Palm Beach County shall be deemed to divest the parcels or tracts of the exemption provided. Qualification for exemption shall require submittal of documents specified in Sec. 16.1.F.2.d. Such lots are further exempt from the provisions of Secs. 16.1.F.4.c.(3) and 16.1.F.4.i, 16.1.F.4.i.(2) as follows:

(1) A minimum surface water setback of only fifty (50) feet is required provided the soils are not of the type addressed in Sec. 16.1.G.4.n.
(2) Lots at least five thousand five hundred (5,500) square feet in total size shall qualify for a single-family residence having no more than two (2) bedrooms or no more than one thousand (1,000) square feet of heated or cooled area.

m. **Location within 210-day travel time contour.** The following additional restrictions apply to on-site sewage disposal systems that are proposed within the 210-day travel time contour of an existing or proposed wellfield. These restrictions apply to requests for permits on individual lots, existing subdivisions and new subdivisions.

TRAVEL TIME (Days)	MAXIMUM SEWAGE LOADING (Gallons/acre/day)
Less than or equal to 30	350
Greater than 30 but less than or equal to 210	600

n. **Special soil conditions.** The following standards shall apply when the soil profile, as required under Sec. 16.1.F.2.a.(3), shows the presence of hardpan or bedrock or of soils classified as sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, clay and organic soils. The Palm Beach County Soil Survey prepared by the United States Department of Agriculture Soil Conservation Service or other available data may be used by the PBCPHU to determine the presence of the above noted soils.

(1) The maximum sewage loading shall not exceed four hundred fifty (450) gallons per acre per day.
(2) The on-site sewage disposal system shall be placed no closer than the minimum distances indicated for the following:
  (a) One hundred (100) feet from a private well, as defined in Article 3;
  (b) Three hundred (300) feet from a non-community well and a semi-public well, as defined in Sec. Article 3;
  (c) Five hundred (500) feet from a community well, as defined in Sec. Article 3;
  (d) Seventy-five (75) feet from a non-potable water well, as defined in Sec. Article 3; and
  (e) One hundred (100) feet from the high water line of lakes, streams, canals or other surface waters.

G. Design and construction standards.

1. **Design flows.** Minimum design flows for systems serving any structure, building or group of buildings shall be based on estimated daily sewage flow, as determined from Table 16.1-2 or, for all structures except residences, the PBCPHU may accept metered water use data in lieu of the estimated sewage flows set forth in Table 16.1-2. For metered flow consideration, the applicant shall provide authenticated monthly water use data documenting water consumption for the most recent twelve (12) month period for at least six (6) similar establishments. Similar establishments are those of comparable size and operations engaged in the same type of business or service, which are located in the same type of geographic environment and which have approximately the same operating hours. Metered flow values shall not be considered to be a reliable indicator where one (1) or more of the establishments utilized in the sample has exceeded the monthly flow average for all six (6) establishments by more than twenty (25) percent, or where the different establishments demonstrate wide variations in monthly flow totals.

TABLE 16.1-2
ESTIMATED DOMESTIC SEWAGE FLOWS

Use	Unit	Gallons/Day
COMMERCIAL:		
Airports	Passenger Employee (8 hr. shift)	5 20
Barber and beauty shops	Chair	100
Bowling alleys	Toilet wastes only/lane	100
Country club	Resident Member Employee (8 hr. shift)	100 25 20
Dentist offices	Wet chair Dry chair	200 50
Doctors offices	Doctor	250
Factories, exclusive of industrial wastes	Gallons/Employee/8 hr. shift No showers provided Showers provided	 20 35
Hotels & motels	Regular/room Resort hotels, camps & cottages/person Add for establishments with self service, laundry facilities/machine	150 150 400
Office buildings	Employee/8 hr. shift	20
Service stations	Water closet & per urinal	250

Use	Unit	Gallons/Day
Shopping centers without food or laundry establishments	Square foot of floor space	0.1
Stadiums, race tracks, ball parks	Seat	5
Stores	Square foot of floor space	0.1
Swimming and bathing facilities, public	Person	10
Theaters	Indoor, auditoriums/Seat Outdoor, drive-ins/Space	5 10
Trailer or Mobile Home Park	Trailer space	200
Travel Trailer or recreational vehicle park	Travel trailer (overnight), without water and sewer hookup/trailer space Travel trailer (overnight), with water and sewer hookups/trailer space	75 100
Warehouses, dry storage only	Square foot of floor space	0.04
INSTITUTIONAL:		
Churches	Seat	3
Nursing, rest homes	Bed-(does not include kitchen wastewater flows)	100
Institutions	Meal	5
Parks, public picnic	Toilets only/Person Bathhouse, showers & toilets/Person	5 10
Public institutions other than schools and hospitals	Person-(does not include kitchen wastewater flows)	100
Schools	Student Day-type Add for showers Add for day school workers Boarding type	 15 5 15 75
Work or construction camps, semi-permanent	Worker	50

Use	Unit	Gallons/Day
RESIDENTIAL:		
Single-family or multi-family	Dwelling unit 1 bdrm. and 750 sq. ft. or less heated or cooled area 2 bdrms. and 751-1200 sq. ft. heated or cooled area 3 bdrms. and 1201-2250 sq.ft. heated or cooled area 4 or more bdrms. and 2251-3300 sq. ft. heated or cooled area Each additional bdrm. over 4 add.	 150 300 450 600 75
Other	Occupant	75

For each additional bedroom or each additional seven hundred fifty (750) square feet of building area or fraction thereof in a dwelling unit, system sizing shall be increased by one hundred fifty (150) gallons per dwelling unit.

2. **Septic tank capacity.** Minimum effective septic tank capacity shall be determined from Table 16.1-3. However, where multiple-family dwelling units are jointly connected to a septic tank system, minimum effective septic tank capacities specified in the table shall be increased by at least seventy-five (75) gallons for each dwelling unit connected to the system.

TABLE 16.1-3
SEPTIC TANK CAPACITY

Average Sewage Flow (Gallons/Day)	Minimum Effective Capacity (Gallons)
0-500	900
501-600	1050
601-700	1200
701-800	1350
801-900	1500
901-1000	1650
1001-1250	1900
1251-1500	2200
1501-2000	2700
2001-2500	3200
2501-3000	3700
3001-3500	4300
3501-4000	4800
4001-4500	5300
4501-5000	5800

3. **Laundry waste systems.** A separate laundry waste system may be utilized for residences. Where a separate system is used, the following requirements shall apply.

   a. The minimum drainfield absorption area shall be seventy-five (75) square feet for a one (1) or two (2) bedroom residences with an additional twenty-five (25) square feet for each additional bedroom. The PBCPHU may require additional drainfield area depending on site specific conditions.

   b. The laundry waste interceptor shall meet the requirements of Sec. 16.1.G.9.

   c. A size reduction of twenty-five (25) percent shall be allowed for the main septic tank and drainfield system. However, the minimum capacity of the septic tank shall not be reduced below nine hundred (900) gallons.

4. **Drainfield absorption area.** The minimum absorption area for drainfield systems shall be based on estimated domestic sewage flows and Table 16.1-4. Table 16.1-4 assumes the use of drain trenches. If an absorption bed is used in lieu of drain trenches, the size of the absorption area shall be increased by twenty-five (25) percent for sand, loamy sand and sandy loam soils and by fifty (50) percent for other approved soil classes. Mound drainfield size shall be based on the quality of fill material utilized in the mound system and shall be in compliance with the following table:

Fill Material	Maximum Sewage Loading Rate (Gallons/sq. ft./day)
Sand or Loamy Sand	1.2
Sandy Loam	0.6

TABLE 16.1-4

U.S. Department of Agriculture Soil Textural Classification	Percolation Rate	Maximum Sewage Loading Rate (Gallons per sq. ft./Day)
Sand and Loamy Sand	Less than 2 minutes/inch	2.0
Sandy Loam Fine Sand	2-4 minutes/inch 2-4 minutes/inch	1.5 1.2
Loam and Silt Loam	5-10 minutes/inch	1.0
Silt and Sandy Clay Loam	Greater than 10 minutes/inch but not exceeding 15 min./inch	.75
Clay Loam, Silty Clay Loam, Sandy Clay and Silty Clay	Greater than 15 minutes/inch but not exceeding 30 minutes/inch	0.50
Clay, Organic Soils, Hardpan and Bedrock	Greater than 30 minutes/inch	Unsatisfactory for standard subsurface system
Very Coarse Sand, Gravel and Fractured Rock	Less than 1 minute/inch and a water table less than 4 feet below the drainfield	Unsatisfactory for standard subsurface system

(1) U.S. Department of Agriculture major soil textural classification groupings and methods of field identification are explained in the Florida Soils Identification Handbook. Laboratory sieve analysis of soil samples may be necessary to confirm field evaluation of specific soil textural classification. The U.S. Department of Agriculture Soil Conservation Service "Soil Textural Triangle" shall be used to classify soil groupings based on the proportion of sand, silt and clay size particles.

(2) When all other site conditions are favorable, thin horizons or strata of moderate or severe limited soil may be replaced with slightly limited soil. The resulting soil profile must be satisfactory to a minimum depth of fifty-four (54) inches beneath the bottom surface of the proposed drainfield. The width of the replacement area shall be at least three (3) times the drain trench width and for absorption beds shall include an area at least ten (10) feet wider than the proposed bed width. The drainfield shall be centered in the replaced area.

5. Drainfield system construction standards.

a. Distribution box. Where gravity flow is possible, a distribution box shall be required for distributing sewage from the septic tank or other treatment receptacle to the drainfield. The distribution box may be built as an integral part of the septic tank or may be a separate unit set on solid ground and anchored in the drainfield.

(1) Distribution boxes shall be watertight, constructed of durable materials, have adequate structural strength, and be of sufficient size to accommodate the required number of distribution pipes.
(2) Each distribution pipe shall be connected individually to the box.
(3) The invert of inlets to the box shall be at least one inch above the invert of the outlets. The invert of all outlets shall be level with respect to each other.

b. Header pipe. A header pipe shall be used in lieu of a distribution box when an automatic dosing system is used for drain trenches or absorption beds over one thousand (1,000) square feet as required under Sec. 16.1.G.5.c. The header pipe shall be installed in compliance with the following requirements:

(1) Header pipe shall meet requirements of ASTM D3034-83, for polyvinyl chloride material or ASTM F 405-82a, heavy duty classification, for smooth inner wall polyethylene material. Header pipe shall have a minimum inside diameter of two (2) inches.
(2) The header pipe shall be laid level with direct, watertight connections to each distribution pipe and the dosing tank outlet pipe. The header pipe shall be encased in filter material and restrained with concrete thrust blocking.

c. Automatic dosing system. An automatic dosing system shall be used where the required area of the drainfield is greater than one thousand (1,000) square feet or where gravity flow into the drainfield is not possible. Plans and equipment specifications for automatic dosing systems shall be approved by the PBCPHU prior to construction or installation. Pumps used to distribute sewage effluent must be certified by the manufacturer to be suitable for such purpose.

(1) Dosing systems for less than two thousand (2,000) square feet of drainfield shall consist of a dosing tank that receives the flow from a septic tank or other treatment receptacle. This dosing tank shall be at least twenty-four (24) inches in diameter, or equivalent rectangular size, and shall be provided with one (1) or more pumps with level controls set in accordance with the requirements set forth in Secs. 16.1.G.5.c.(3) and 16.1.G.5.c.(4). Two (2) pumps shall be required for commercial use and multi-family residential use where estimated establishment sewage flows exceed four hundred fifty (450) gallons per day.
(2) Systems having more than two thousand (2,000) square feet of drainfield shall have two (2) dosing pumps, with each pump serving one-half (½) of the total required drainfield. The pumps shall dose alternately.

(3) The volume of the dosing chamber between the pump operating levels shall be adequate to assure that the entire distribution pipe is dosed each cycle. The volume of pipe typically used in drainfield systems is as follows:

Pipe Size	Volume of Conduit
2 inch	0.16 Gal. per foot
4 inch	0.65 Gal. per foot
6 inch	1.47 Gal. per foot

(4) When a drainfield is installed in sand, loamy sand or sandy loam soils, operating levels should be adjusted to dose the drainfield four (4) times in a twenty-four (24) hour period. For fine textured soils the drainfield should be dosed no more than two (2) times in a twenty-four (24) hour period.

(5) A high water alarm shall be provided to warn of pump failures.

d. **Drain trenches and absorption beds.** Drain trenches are the standard drainfield systems used for disposing of effluent from septic tanks or other treatment receptacles. Absorption beds may be approved by the PBCPHU on a case-by-case basis and used in lieu of the drain trench method; they shall not be constructed and used without prior approval. These systems shall be constructed as specified below:

(1) When utilizing the drain trench method, the width of the trench at the bottom shall be eighteen (18) to twenty-four (24) inches. There shall be a minimum separation distance of six (6) feet between centers of the trenches.

(2) The distance between the centers of distribution lines in an absorption bed shall be a maximum of three (3) feet for four (4) inch pipe and four (4) feet for six (6) inch pipe. The distance between the side wall of the bed and the center of the outside drain line shall be one and one-half (1½) feet for drain pipe.

(3) All portions of the header pipe or perforated pipe, shall be installed in filter material of washed and screened gravel, stone, slag, or similar material meeting State of Florida Department of Transportation (DOT) specifications under Section 901, "Standard Specifications for Road and Bridge Construction, 1991". Filter material may vary in size from one-quarter (¼) inch to two (2) inches and shall be free of excess fines which could clog the soil infiltrative surface. Approved standard sizes for various filter materials are:

Material	DOT Size Number
Limestone, slag and similar material	3, 4 or 5
Quartz rock and river gravel	3, 4, 5, 6 or 7

(4) Filter material shall encase the distribution pipe to a minimum depth of six (6) inches under the pipe and have a total depth of at least twelve (12) inches extending throughout the width of the trench or absorption bed.

(5) The filter material in place shall be protected from infiltration of earth backfill by an effective barrier of polyester bonded filament or other acceptable material as determined by the PBCPHU.

(6) The maximum depth from the invert of the distribution pipe to the finished ground surface shall not exceed twenty-four (24) inches. The minimum earth cover over the top of the distribution box or header pipe shall be six (6) inches.

(7) The inside diameter of the distribution pipe shall be determined based on the type and design of the proposed drainfield system. However, for standard subsurface systems, inside pipe diameter shall not be less than four (4) inches. Perforated pipe shall have a minimum perforated area of one and one-half (1½) square inches per linear foot. Perforations shall be located in the bottom half of the pipe. However, for drainfield systems over five hundred (500) square feet in size, the distribution perforation area and hole configuration shall be especially designed in order to assure that effluent is distributed throughout the drainfield area. All plastic pipe shall conform to the standards of ASTM F 405-82a. For standard subsurface systems, distribution pipe shall be graded with a downward slope of one-quarter (¼) inch to one-half (½) inch per ten (10) feet. In case of an automatic dosing system, the distribution pipe may be placed level or on a downward slope not exceeding one-half (½) inch per ten (10) feet. The maximum length of distribution pipe shall not exceed one hundred (100) feet and where two (2) or more pipes are used, they shall be, as near as practical, the same length. The ends of two (2) or more distribution pipes in an automatic dosing system, shall be connected to produce a continuous circuit.

e. **Mound system.** A mound system may be used to overcome certain unfavorable site conditions and must meet the following requirements:

(1) The design shall comply with all the standards outlined in Sec. 16.1.F.4.

(2) The maximum height, base to crest, of a mound system shall be thirty-six (36) inches. However, prior to the construction of a mound system, all or a portion of a lot may be filled utilizing satisfactory soil. If a lot or portion of a lot is filled, the fill shall extend a minimum of twenty (20) feet in all directions beyond the perimeter of the mound base.

(3) The "O" Horizon of original topsoil and vegetation must be removed from the fill site and the exposed underlying soil plowed or roughened to prevent formation of an impervious barrier between the fill and natural soil. If unsatisfactory soil is to be replaced beneath the mound, the width of the replacement area shall be at least ten (10) feet wider than the proposed drainfield absorption bed.

(4) There shall be a minimum five (5) feet separation between the shoulder of the fill and the nearest trench or absorption bed sidewall. To taper the maximum elevation of the mound down to the toe of the slope, additional fill shall be placed at a minimum four to one (4:1) grade, provided that where the mound is to be sodded concurrent with its construction, the additional fill may be placed at a minimum two to one (2:1) grade. When a mound is not sodded concurrent with its construction, the mound shall be seeded with grass and a layer of hay or similar cover shall be placed to prevent mound erosion. The mound shall be stabilized within thirty (30) days of completion of mound construction.

(5) There shall be a nine (9) to twelve (12) inch soil cap spread evenly over the drainfield gravel.

(6) The site shall be landscaped according to permit specifications and shall be protected from vehicular traffic or other activity that could damage the system. Storm water run off from the mound system shall not be allowed to drain onto neighboring property.

f. **Large diameter drainpipe trench (LDDT) systems.** Large diameter drainpipe trench systems can be substituted for gravel filled drain trenches where the systems are to be installed in sand, loamy sand or sandy loam soils. Verification of the aforementioned soil categories shall be made by certified laboratory. Where LDDT systems are utilized, they shall be constructed of at least eight (8) inch minimum inside diameter corrugated tubing encased in a filter wrap. Each linear foot of eight (8) and ten (10) inch diameter drainpipe is equivalent to two (2) square feet and three (3) square feet respectively of soil absorption area. LDDT systems shall not be utilized in mound systems. Large diameter drainpipe shall be manufactured in accordance with the following specifications:

(1) The eight (8) inch or ten (10) inch inside diameter tubing shall be corrugated polyethylene, or of material in strength and durability meeting the requirements of ASTM F667, standard specification for 8", 10", 12" and 15" corrugated polyethylene tubing with the following exceptions:

(a) Perforations shall be cleanly cut and uniformly spaced along the length of the tubing as follows: two (2) rows of three-eighths (⅜) to one-half (½) inch diameter holes located 115 degrees - 125 degrees apart along the bottom half of the tubing with each row of holes 57.5 degrees - 62.5 degrees up from the bottom centerline. These perforations should be staggered so that there is only one hole in each corrugation.

(b) The tubing shall be marked with a visible top location stripe.

(2) All large diameter drainpipe shall be encased, at the point of manufacture, with a spun bonded nylon, or other material of similar strength and durability. This wrap shall have the following general qualities:

Physical Properties	Minimum Values
Grab Strength, lbs. (ASTM D1682)	11
Burst Strength, psi (ASTM D3887)	26
Air Permeability, cfm per sq. ft. (ASTM D737)	500
Water Flow Rate, gpm per sq. ft. at 3" head	500
Surface Reaction to water (Polyethylene particles in water solution)	Hydrophilic

Particle Size (Microns)	Percent Retained
70	80
60	68
50	56
40	40
30	22
20	5

(3) LDDT system installations shall conform to all rules and regulations which apply to gravel filled trench systems with the following exceptions:

(a) The large diameter drainpipe shall have at least twelve (12) inches but not more than twenty-four (24) inches of soil cover. In addition, the distribution box outlet invert of header pipe invert shall be at least one (1) inch higher than the invert of the large diameter drainpipe perforations. The invert of the large diameter drainpipe shall be considered as the bottom surface of the drainfield when applying the site evaluation criteria of Sec. 7.7.

(b) The pipe shall be laid level and positioned in the trench so that each row of drain holes is located approximately sixty (60) degrees from the bottom centerline of the pipe. A cap shall be placed on the end of each line.

(c) The trench shall be backfilled to grade with slightly limited soil.

6. **Treatment receptacles.** The following requirements shall apply to all treatment receptacles manufactured for use in Palm Beach County unless specifically exempted by other provisions of these sections:

a. Treatment receptacles shall be watertight and may have single or multiple compartments, or receptacles may be placed in series, to achieve required liquid capacity. The first chamber of a multi-compartment receptacle or the first receptacle of two (2) or more receptacles placed in series shall have an effective liquid capacity of at least two-thirds (⅔) of the total required liquid capacity. Additional chambers shall have a minimum effective liquid capacity equal to or greater than one-half (½) of the liquid capacity of the first chamber.

b. Each compartment shall have access provided by twenty-four (24) inch maximum width sectional lids, or have manholes, with each manhole having a minimum area of two hundred twenty-five (225) square inches. Manholes or sectional lids shall be located so as to allow access to the inlet and outlet devices. Single compartment receptacles shall have either (1) an access manhole or a sectional lid over the inlet extending to ground surface, or (2) a permanent marker, such as a minimum one hundred forty-four (144) square inch by four (4) inch thick concrete pad, exposed at finished grade to indicate the location of the inlet manhole or sectional lid. For multi-compartment receptacles in series, manholes or sectional lids shall extend to finished grade; or, alternatively, permanent markers shall be placed at finished grade over the first compartment inlet and the last compartment outlet. When exposed at ground surface, an appropriate mechanism shall be provided to make access manholes resistant to vandalism and tampering.

c. The liquid depth of compartments shall be at least forty-two (42) inches. Liquid depths greater than seventy-two (72) inches shall not be considered in determining the effective liquid capacity.

d. A minimum free board or air space of fifteen (15) percent of the volume of the holding capacity of the receptacle shall be provided.

e. The inlet invert shall enter the receptacle one (1) to three (3) inches above the liquid level of the receptacle. A vented inlet tee, vented sweep or a baffle shall be provided to divert incoming sewage. The inlet device shall have a minimum diameter of four (4) inches and shall not extend below the liquid surface more than thirty-three (33) percent of the liquid depth.

f. A minimum four (4) inch diameter vented outlet tee sweep or baffle shall extend below the liquid level of the receptacle a distance not less than thirty (30) percent nor greater than forty (40) percent of the liquid depth, and shall extend at least five (5) inches above the liquid level. The submerged opening of the outlet fixture shall be provided with an approved solids deflection device to reduce the area exposed to the vertical rise and fall of solid particles by at least ninety (90) percent. Turning the submerged opening of an outlet device ninety (90) degrees from the vertical will satisfy the solids deflection device requirement.

g. The inlet and outlet devices shall be located at opposite ends of the receptacle so as to be separated by the maximum distance possible and shall be attached in a watertight manner.

h. Sewage flow between the first and second chamber of a multi-chamber receptacle shall interconnect, utilizing either a minimum six (6) inch diameter hole or equivalent size slot in the wall or with a minimum six (6) inch diameter vented and inverted U-fitting or a tee. Receptacles in series shall interconnect utilizing a vented, inverted U-fitting or a tee. The intake of the outlet device or hole invert shall extend below the liquid surface approximately thirty-three (33) percent of the liquid depth.

i. Receptacles shall be provided with a suitable legend cast or stamped into the wall at the inlet end, and within six (6) inches of the top of the wall. The legend shall identify the manufacturer, the year the tank was manufactured and shall indicate the effective liquid capacity of the receptacle in gallons.

7. **Construction materials for treatment receptacles.**

a. **Concrete receptacles.** Concrete treatment receptacles shall be watertight and may be built of precast or poured-in-place concrete which has a design mix for unit compressive strength of at least three thousand (3,000) pounds per square inch after twenty-eight (28) days curing.

(1) Precast concrete receptacles with a capacity of twelve hundred (1,200) gallons or less shall have a minimum wall and bottom thickness of two (2) inches. Precast receptacles with a capacity exceeding twelve hundred (1,200) gallons shall have a minimum wall and bottom thickness of three (3) inches. Precast concrete receptacles shall contain reinforcing to facilitate handling. Receptacles of concrete poured in place shall have a minimum wall and bottom thickness of four (4) inches. The bottoms of concrete treatment receptacles shall be monolithic and an integral part of the walls.

(2) Receptacles with capacities of twelve hundred (1,200) gallons or less shall have tops or covers of concrete with a minimum thickness of three (3) inches when precast and four (4) inches when poured in place. When capacities exceed twelve hundred (1,200) gallons, the tops shall be precast with a minimum thickness of four (4) inches.

(3) Tops shall be reinforced with three-eighths (3/8) inch steel reinforcing rods on six (6) inch centers in each direction. Whenever vehicular traffic is anticipated to cross over any treatment receptacle, traffic lids shall be installed with manhole covers to finished grade. Traffic lids and treatment receptacles shall be designed to support a minimum load of ten (10) tons.

b. **Fiberglass receptacles.** Fiberglass reinforced plastic treatment receptacles shall not be used under any area subject to vehicular traffic. The following structural requirements are applicable to fiberglass receptacles and other receptacles made of a comparable class of materials.

(1) Resins and sealants used in the receptacles manufacturing process shall be capable of effectively resisting the corrosive effects of sewage, sewage gases and soil burial. Materials used shall be formulated to withstand shock, vibration, normal household chemicals, earth and hydrostatic pressure when either full or empty.

(2) Not less than thirty (30) percent of the total weight of the receptacle shall be fiberglass reinforcement. Fiberglass receptacles with an effective liquid capacity of fifteen hundred (1,500) gallons and less shall have a minimum wall thickness of one-quarter (¼) inch. However, a wall thickness of not less than three-sixteenths (3/16) inch will be allowed in small isolated areas of the receptacle.

(3) Internal surfaces shall be coated with an appropriate gel coating to provide a smooth, pore-free, and watertight surface.

(4) Two (2) piece receptacles shall be made watertight, by the use of an approved sealer and approved non-corrosive fasteners.

(5) Receptacles shall be constructed so that all parts meet the following mechanical requirements:

(a) **Ultimate tensile strength** - minimum 12,000 PSI when tested in accordance with ASTM D 638-82, Standard Method of Test for Tensile Properties of Plastics.

(b) **Flexural strength** - minimum 19,000 PSI when tested in accordance with ASTM D 790-81, Standard Method of Test for Flexural Properties of Plastics.

(c) **Flexural modulus of elasticity** - minimum 800,000 PSI when tested in accordance with ASTM D 790-81, Standard of Test for Flexural Properties of Plastics.

(6) A test report from an independent testing laboratory is required to substantiate that individual receptacle designs and material formulations meet the requirements of Sec. 16.1.G.7.b.(5) above.

(7) Physical properties for receptacles over fifteen hundred (1,500) gallons effective liquid capacity must be approved by the PBCPHU.

(8) Receptacle lids shall be securely fastened or sealed to prevent unwarranted access to the contents of the receptacles.

c. **Other materials.** Treatment receptacles to be constructed of other materials shall have prior approval from the PBCPHU.

8. **Grease trap.** A grease trap is not required for a residence. However, one or more grease traps are required where grease waste is produced in quantities that could otherwise cause line stoppage or hinder sewage disposal. The design of grease traps shall be based on standards found in applicable local plumbing codes. In addition, the following general requirements apply when determining the proper use and installation of a grease trap used as a component of an on-site sewage disposal system.

a. Grease traps must be located so as to provide easy access for routine inspection, cleaning and maintenance. Manholes shall be provided over the inlet and outlet of each grease trap and be brought to finished grade.

b. Where a grease trap is required, wastewater containing grease shall first pass through the trap and then be discharged into the first compartment of a treatment receptacle or other approved system.

c. Invert of inlet shall be a minimum of three (3) inches above liquid level line of grease trap.

d. Flow from trap shall be baffled with tee or vented sweep (quarter bend) at outlet and extending within eight (8) inches of bottom of trap.

e. The minimum size grease trap shall be no smaller than seven hundred fifty (750) gallons.

9. **Laundry waste interceptor.** When a separate system is installed to dispose of wastewater from home washing machines only, the retention tank or interceptor for such system shall meet the following minimum standards:

a. The minimum effective capacity shall be two hundred twenty-five (225) gallons when the estimated sewage flow is less than or equal to nine hundred (900) gallons per day and seven hundred fifty (750) gallons for flows greater than nine hundred (900) gallons per day.

b. The interceptor shall be baffled and vented as specified in the septic tank construction standards found in Sec. 16.1.G.6.

c. The interceptor shall not be used as a grease trap.

10. **Portable toilets.** The following general standards apply to portable toilets:

a. Portable toilets shall be self contained, have self-closing doors, have screened vents and shall be designed and maintained so that insects are excluded from the waste container.

b. Waste receptacles shall be watertight and made of non-absorbent, acid resistant, non-corrosive and easily cleanable material.

c. The floors and interior walls shall have a non-absorbent finish and shall be easily cleanable.

d. The inside of the structure housing the storage compartment shall be cleaned and disinfected on each service visit.

e. Portable toilets shall be serviced weekly or at more frequent intervals to prevent the creation of unsanitary conditions.

11. **Alternative systems.** When approved by the PBCPHU, alternative systems may be utilized where septic tank systems are not suitable or where a greater degree of treatment is desirable. All rules pertaining to drainfield systems and their design shall apply to alternative systems. Use of an alternative system may require the establishment of procedures for routine maintenance, operational surveillance and environmental monitoring to assure that the system continues to function properly. Use of a system to serve more than one (1) residence or commercial building under separate ownership and when located on separate lots shall require the establishment of a local sewer district, maintenance franchise or other legally binding arrangement for the operation and maintenance of such system. In addition, the PBCPHU shall require the submission of plans prepared by an engineer registered in the State of Florida and qualified in the field of waste water system design prior to considering the use of any alternative system. The PBCPHU shall also require the design engineer to certify that the installed system complies with the approved design and installation requirements. The following alternative systems may be considered for approval by the PBCPHU.

a. **Compost toilets.** Organic waste composting toilets may be approved for use, provided that graywater and any other liquid and solid waste is properly collected and disposed of in accordance with standards established in this Section; odor control is provided; and the system has NSF approval.

b. **Aerobic treatment.** Aerobic treatment units may be utilized for residential and commercial domestic sewage treatment, provided that the unit to be installed is in compliance with National Sanitation Foundation (NSF) standards for Class I or Class II systems as defined by NSF Standards Number 40, revised May 1983, and provided the unit is approved by the PBCPHU. The following additional requirements shall also apply:

(1) An appropriate failure warning device shall be installed in a conspicuous location.
(2) Servicing equipment and replacement parts must be readily available to provide for continuous operation of the system.
(3) There shall be no bypass designed into the unit. Effluent shall not leave the unit without receiving treatment necessary to achieve the appropriate NSF Class I or Class II effluent quality.
(4) Effluent from an aerobic sewage treatment unit shall be disposed of on the owner's property in conformance with other requirements of this Section.
(5) There shall be an approved public or private management entity to service and maintain each aerobic treatment. Eligible management entities include cities, counties, water and sewer districts, sanitary districts, and public or private utilities. A private commercial management entity may be utilized provided each homeowner, or group of homeowners, submits a written contract to the PBCPHU which guarantees that the aerobic treatment unit will be maintained for the life of the system. Also, where State or local laws require a homeowners association for a particular type of development, such non-profit corporation may be considered to be an acceptable management entity.
(6) Other alternative systems meeting the general requirements of this Section may be approved by the PBCPHU on a case-by-case basis, where evidence exists that use of such systems will not create sanitary nuisance conditions, health hazards or pollute receiving waters.

H. Percolation tests.

1. When a percolation test is required to be performed, one or more test holes shall be dug within the area proposed for a drainfield system. Where soil conditions within the area are highly variable, a minimum of three percolation test holes, uniformly spaced, shall be required.

2. The diameter of each test hole shall be six (6) inches, dug or bored to the proposed depth of the absorption system. To expose a natural soil surface, the sides of the hole shall be scratched with a sharp pointed instrument and the loose material shall be removed from the bottom of the test hole. To protect the bottom from scouring action when water is added, two (2) inches of one-half (½) to three-quarter (¾) inch gravel shall be placed in the hole.

3. The hole must be carefully filled with at least twelve (12) inches of clear water. This depth of water shall be maintained for at least four (4) hours and preferably overnight if clay soils are present. Automatic siphons or float valves may be employed to automatically maintain the water level during the soaking period. In sandy soils with little or no clay, soaking is not necessary. If, after filling the hole twice with twelve (12) inches of water, the water seeps completely away in less than ten (10) minutes, the test can proceed immediately.

4. Except for sandy soils, percolation rate measurements shall be made at least fifteen (15) hours, but no more than 30 hours, after the soaking period began. Any soil that sloughed into the hole during soaking period shall be removed and the water level adjusted to six (6) inches above the gravel (or 8 inches above the bottom of the hole). At no time during the test shall the water level be allowed to rise more than six (6) inches above the gravel. Immediately after adjustment, the water level is measured from a fixed reference point to the nearest one-sixteenth (1/16) inch at thirty (30) minute intervals. The test shall be continued until two (2) successive water level drops do not vary by more than one-sixteenth (1/16) inch. At least three (3) measurements must be made. After each measurement, the water level shall be readjusted to the six (6) inch level. The last water drop shall be used to calculate the percolation rate. In sandy soils or soils in which the first six (6) inches of water added, after the soaking period, seeps away in less than thirty (30) minutes, water level measurements are made at ten (10) minute intervals for a one hour period. The percolation rate is calculated for each test hole by dividing the time interval used between measurements by the magnitude of the last water level drop. This calculation results in a percolation rate in terms of minutes/inch. To determine the percolation rate for an area where soil conditions are highly variable, the rates obtained from each test hole shall be averaged. However, if the individual rates vary by more than twenty (20) minutes per inch, the maximum rate shall be used.

I. **Collection, treatment and disposal of septage.**

1. No person(s) or corporation shall engage in the business of servicing septic tanks, grease traps, portable toilets or other treatment receptacles without first obtaining an annual license from the PBCPHU.

2. Application for a septage disposal service license shall be made to the PBCPHU. The following must be provided for evaluation prior to issuance of a license:

   a. Evidence that the applicant possesses adequate equipment such as a tank truck, pumps, appurtenances and tools for the work intended.

b. The permanent location and address of the business where operations will originate and where equipment is to be stored when not in use.

c. The proposed disposal method and the site to be used for disposing of septage.

3. The service truck shall display in three (3) inch or larger letters:

a. The date license was issued;

b. The license number; and

c. The name of the company, its address, and telephone number.

4. After septage is removed from a treatment receptacle, grease trap or laundry interceptor, the tank lid shall be properly secured, sealed, backfilled and the site left in a safe and nuisance free condition.

5. Septage shall be transported to the disposal site in a manner that will preclude leakage, spillage or the creation of a sanitary nuisance.

6. The septage from an on-site waste disposal system shall be disposed of in a manner approved by the PBCPHU. Untreated septage shall not be applied to the land.

7. No on-site storage facility shall be utilized without prior approval by the PBCPHU.

8. All service records shall be maintained at the business location and made available to any representative of the PBCPHU upon request.

9. The following equipment, maintenance and service requirements shall be complied with:

a. All waste transportation equipment shall be maintained in good working order at all times. Valves, hoses, tanks and appurtenances shall be properly maintained and shall not leak. Valves shall be locked to prevent accidental opening during transportation and storage.

b. Tank trucks used for servicing portable toilets shall be provided with a dual compartment tank and shall be approved by the PBCPHU. One tank shall be used for receiving and removing wastes and shall be equipped with a suction hose having a cut-off valve not more than thirty-six (36) inches from the intake end. The second tank shall be used for clean water storage and shall be of adequate size to allow proper cleaning of each serviced unit. Water from the second tank shall be provided under pressure.

c. Standby service equipment shall be available for use during breakdown or emergencies. If equipment from another approved service is to be used for standby purposes, a written agreement between the services must be provided to the PBCPHU.

d. The waste storage compartment of a tank truck shall be maintained as necessary to prevent the creation of sanitary nuisance conditions.

e. There shall appear in a conspicuous place on each portable or temporary toilet the name, address and telephone number of the servicing company.

J. Maintenance. Any person owning or controlling property upon which an on-site sewage disposal system is installed shall be responsible for maintenance of the system. The following criteria are provided for guidance in proper system maintenance.

1. Systems shall be maintained at all times to prevent seepage of sewage or effluent to the surface of the ground.

2. Septic tanks and other sewage retention tanks should be checked at least once every three years, or once a year if garbage grinders are discharging to the tank, to determine if sludge must be removed. Tanks should be cleaned whenever the bottom of the scum layer is within eight (8) inches of the bottom of the outlet device or when the sludge level is within eighteen (18) inches of the bottom of the outlet device.

3. Grease traps should be cleaned at appropriate intervals to insure that at least fifty (50) percent of the grease retention capacity of the trap is retained.

4. Organic chemical solvents shall not be used for the purpose of degreasing or declogging on-site sewage disposal systems.

K. Appeals. Persons aggrieved by a requirement, interpretation or determination of this section made by the PBCPHU or the Environmental Control Officer may appeal to the Environmental Appeal Board by filing a written notice of appeal to the Environmental Control Officer. However, no appeal shall be filed which requests relief from the construction standards required under Sec. 16.1.G.

1. Fee. The notice shall be accompanied by a certified check or money order made payable to the PBCPHU to defray the cost of processing and administering the appeal. The fee for filing the appeal shall be non-refundable and in the following amounts:

a. $100.00 for a single family residence.

b. $125.00 for all others, including, but not limited to, multi-family, commercial, or subdivisions.

2. **Application submittal requirements**. Each notice of appeal shall state the factual basis for the appeal and the relief requested. There shall be attached to each notice supportive materials and documents, including the information listed in subsections 3 and 4 below, if applicable to the appeal. The Environmental Appeal Board may require such additional information as it deems necessary. A separate application must be filed for each site or system considered for an appeal. The burden of presenting supportive facts in the application shall be the responsibility of the person filing the appeal. The person filing the appeal shall have the burden of proving entitlement to relief. The PBCPHU or the Environmental Control Officer shall defend all appeals before the Environmental Appeal Board.

3. **Information required for an appeal for an individual lot**. Ten (10) copies of the following information prepared by an engineer or land surveyor registered in the State of Florida must be submitted with the notice of appeal for an individual lot.

a. Floor plan.
b. A site plan drawn to scale showing:

(1) Boundaries with dimensions
(2) Elevations or slope of land
(3) Location of building(s)
(4) Location and layout of septic tank
(5) Location and layout of drainfield
(6) Location of potable water supply lines
(7) Location of well
(8) Location of public sewers
(9) Location and elevation of percolation test
(10) Location of septic tank, drainfield and well on adjacent properties (sides, front and rear)
(11) Location of driveways, parking and walkways
(12) Benchmark on or adjacent to property

c. The site plan must indicate the following (related to the system):

(1) Distance from private well
(2) Distance from public well
(3) Distance of septic tank and drainfield from building
(4) Distance of septic tank and drainfield from property line
(5) Distance from water supply lines
(6) Distance to high water line of lakes, canals, streams, etc.

d. Percolation test results in the drainfield area.

e. A soil profile to six feet (in drainfield area) indicating the soil classification and showing the existing water table and the estimated wettest season water table.

4. **Information required for an appeal for a subdivision.** Ten (10) copies of the following information prepared by an engineer registered in the State of Florida must be submitted with the notice of appeal for a subdivision.

a. **General Information.**

(1) Name of subdivision
(2) Owner
(3) Address
(4) Location of subdivision
(5) Total area of subdivision (in acres)
(6) Number of lots
(7) Minimum lot size
(8) Location, size, and distance of adjacent subdivisions
(9) Approximate adjacent acreage available for expansion
(10) Description of typical home to be constructed, including number of bedrooms and square footage of heated or cooled area

b. Required exhibits.

(1) A location map showing the location of the subdivision in relation to the surrounding areas and nearby built-up areas.
(2) A contour map indicating all streams or watercourses, bodies of water, low, wet or marshy land, rock outcrops and filled areas.
(3) A plat of the subdivision showing the individual lots, if available, or a proposed subdivision layout.
(4) A plan of the subdivision indicating all drainage structures and features, designed in accordance with the requirements of the SFWMD and the local drainage district.
(5) A plan of the subdivision indicating proposed water and sewer lines.

c. Water supply.

(1) Source of proposed water supply (community, non-community, private well).
(2) If a utility is expected to supply water, submit evidence of availability of the water supply.
(3) If an on-site well is utilized, submit evidence that ground water is of adequate quality.

d. Sewage disposal.

(1) Name of municipal, county, or investor-owned utility sewerage system
(2) Description of nearest existing sewer (distance, size, and whether gravity flow is possible)
(3) Copy of a letter from responsible official outlining municipality's or county's position on connection to sewerage system
(4) Description of the status of municipality or county plans to extend sewers to this area in the future (preliminary plans approved, final plans approved, contract awarded, estimated date sewers will be available)

e. Water and/or sewer lines.

(1) Are dry water and/or sewer lines being proposed (if not, explain why it is not economically or technically feasible)?
(2) What arrangements has the developer made to connect the dry lines to water and/or sewer upon the availability of such lines?

f. On-site water and sewage treatment facilities.

(1) Explain why on-site water and sewage treatment facilities are not economically or technically feasible.

g. Survey of subsoil conditions.

(1) A sufficient number of percolation test and soil classifications shall be performed so as to adequately represent the existing subsoil conditions, including water table elevation (minimum of ten percent of the number of lots).
(2) All test hole locations shall be clearly indicated on the required topographical map.

(3) Submit data for the wettest season water table expected for the proposed subdivision after the drainage system is constructed.

5. **Requirements.** The person filing the appeal shall also submit to the Environmental Control Officer a list of the names and addresses of every property owner who may be affected by the granting of the appeal in the following cases:

   a. The proposed individual sewage disposal system fails to meet the minimum distance required between the system and a well, as provided by this section; or
   b. The proposed septic tank is within five (5) feet of a neighboring lot; or
   c. The proposed septic tank is within fifty (50) feet of a water body on a neighboring lot.

6. **Hearing.** A hearing on the appeal shall be set within sixty (60) days of receipt of the notice of appeal by the Environmental Control Officer. This provision does not mean that the applicant is entitled to a hearing on the first available agenda following receipt of the notice of appeal.

7. **Due Process.** Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. All testimony shall be under oath. Irrelevant, immaterial or unduly repetitious evidence shall be excluded; but all other evidence of a type commonly relied upon by reasonably prudent persons shall be admissible, whether or not such evidence would be admissible in the trial courts of Florida. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

8. **Rights.** The parties shall have the following rights: to be represented by counsel; to call and examine witnesses; to introduce exhibits; to cross-examine witnesses on any relevant matter, even though the matter was not covered in direct examination; and to rebut evidence.

9. **Environmental Appeal Board.** The Environmental Appeal Board shall hear and consider all facts material to the appeal and shall issue findings of fact based upon the greater weight of the evidence and shall issue an order affording the proper relief consistent with the powers granted herein. The findings and order shall be by motion approved by a majority of those members present and voting.

10. **Findings.** In order to grant an appeal authorizing an individual sewage disposal system on a single lot, the Environmental Appeal Board must find that:

    a. Because of special factors, which may include economic factors, the applicant is unable to comply with this Section and
    b. The individual sewage disposal system complies with current construction standards; and
    c. The granting of the appeal is the minimum alternative that will make possible the reasonable use of the land, structure or building; and
    d. The granting of the appeal is consistent with the general intent, purpose and requirements of Palm Beach County laws and ordinances; and
    e. The granting of the appeal will not be injurious to the area involved or to the public health and general welfare.

11. **Granting.** In order to grant an appeal authorizing individual sewage disposal systems in subdivisions containing lots smaller than those required under this section, the Environmental Appeal Board must additionally find:

    a. That for a proposed subdivision to be served by individual private wells, each lot has at least one-half (½) acre, with a minimum dimension of one hundred (100) feet and that said subdivision contains no more than fifty (50) lots; or that for the proposed subdivision to be served by a public water system, each lot has at least one-third (⅓) acre with a minimum dimension of seventy-five (75) feet and that said subdivision contains no more than one hundred (100) lots; and

    b. That satisfactory ground water can be obtained if an individual private well is to be used; and

    c. That all distance and setbacks, soil conditions, water table elevations and other related requirements of this Section and Chapter 10D-6, F.A.C., are met; and

    d. That the proposed subdivision does not represent sequential development of contiguous subdivisions, the purpose of which is to avoid the requirements of Sec. 16.1.K.11.a, 1.K.11.1; and

    e. That a municipal, county or investor-owned public sewerage system is not available contiguous to the proposed subdivision or within one-quarter (¼) mile thereof with public right-of-way accessibility; and

    f. That the proposed plat contains notification that the lots must be connected to a municipal, county or investor-owned water supply and/or sewerage system within ninety (90) calendar days from the date such system becomes available; and

    g. That the proposed density of the subdivision is consistent with the density recommended in the Comprehensive Plan or in the Land Use Plan of the appropriate municipality; and

    h. That the developer has made every reasonable effort to obtain public water and sewer; and

    i. That dry water and/or sewer lines are to be installed by the developer and that the developer will establish an escrow account to pay for the cost of connection when water and/or sewer becomes available, or that the installation of the same is not feasible from a technical or economic standpoint; and

    j. That on-site, water and/or sewage treatment facilities are not feasible from a technical or economic standpoint; and

    k. That the proposed development will consist of no more than one (1) single-family residence per lot; and

    l. That land uses surrounding and adjacent to the proposed subdivision and soil qualities of the area do not indicate that the area's health is endangered by an inordinate proliferation of septic tanks.

12. **Conditions.** Provided that the factual findings specified in Secs. 16.1.K.10 or 16.1.K.11 are made, the Environmental Appeal Board may reverse, modify or affirm, wholly or partly, the requirement, interpretation or determination made by the PBCPHU or the Environmental Control Officer. In granting an appeal, the Environmental Appeal Board may prescribe appropriate conditions and safeguards consistent with this section. Violation of such conditions and safeguards, when made a part of the terms under which the appeal is granted, shall be deemed a violation of this section. The Environmental Appeal Board may also prescribe a reasonable time within which the action for which the appeal is granted shall be started or completed or both. Any decision of the Environmental Appeal Board shall be in the form of a written order.

13. **Change in facts.** If there is a change in facts or circumstances supporting a request for relief after an order granting relief has been issued, then the applicant shall notify the PBCPHU. The PBCPHU may request the Environmental Appeal Board to revoke or amend the order.

14. **Termination.** Except where the relief granted is to exempt an applicant from the requirement to connect to a sanitary sewer under Sec. 16.1.E.1.a, any relief granted shall automatically terminate upon the availability of sewer service to the lot or parcel. Unless otherwise provided in an order issued pursuant to Sec. 16.1.K.12, relief granted under this section shall automatically lapse if action for which the appeal was granted has not been initiated within one (1) year from the date of granting such appeal by the Environmental Appeal Board or, if judicial proceedings to review the Environmental Appeal Board's decision shall be instituted, from the date of entry of the final order in such proceedings, including all appeals.

15. **Decision.** The decision of the Environmental Appeal Board shall be final administrative action. Any person who is a party to the proceeding may apply for review to the Circuit Court of Palm Beach County in accordance with the Florida Rules of Appellate Procedure.

L. **Inspections.** It shall be the duty of the County Health Director to conduct such inspections as are reasonable and necessary to determine compliance with the provisions of this section.

M. **Violations, penalties, enforcement.** It is unlawful for any person to violate any provisions of this section or any duly constituted order of the Palm Beach County Environmental Control Hearing Board enforcing this section. Such violations shall be punished according to the provisions of Chapter 77-616, Special Acts, Laws of Florida, as amended.

[Ord. No. 95-24]

SEC. 16.2 WATER SUPPLY SYSTEMS – (ENVIRONMENTAL CONTROL RULE II)

A. **Purpose and intent.** The purpose and intent of this section is to establish minimum standards for the design, construction, installation and operation of all water supply systems from which water is used for human consumption, culinary, sanitary, domestic or other purposes.

B. **Applicability.** The regulations of this section shall apply to both new and existing water supply systems, except as otherwise expressly provided, located throughout the total area of Palm Beach County.

C. **General provisions.**

1. **Water service required.** All buildings used or intended for human occupancy, employment or service to the public shall be provided with piped water under pressure from a water system which complies with the provisions of this section. Bottled water shall not be considered an acceptable substitute for such a water system.

   A single water supply system shall be constructed for any new structure, lot or facility containing more than one (1) building with common access parking. This provision shall not affect buildings and water supply systems existing prior to March 14, 1988.

2. **Connections required.** All existing buildings served by non-community, non-transient non-community, and semi-public water supply systems or new private water supply systems shall connect to an approved community water system where such a system has a water main within one hundred (100) feet in a public right-of-way or easement abutting the property on which the building is located.

   a. **Exemptions.** A property owner shall not be required to connect to an approved community water system:

      (1) If connection requires an extension of the main;
      (2) If the main is located across four (4) or more lanes of paved roadway; or
      (3) If the utility is unable to provide water.

   b. **Health threats.** Notwithstanding the provisions of Sec. 16.2.C.2.a above, if the Health Department determines that a potential or existing health threat exists on property served by a non-community, non-transient non-community or semi-public water system, then the connection shall be made as required pursuant to Sec. 16.2.C.2.c below.

   c. **Existing non-community or non-transient non-community systems.** Establishments or buildings that utilize a non-community or non-transient non-community system and are being constructed, modified, expanded or changed in operation shall connect to an approved community water supply system when said system is available within one thousand (1,000) feet by existing right-of-way or easement to the property. Each foot of water crossing, paved roadway, or sidewalk shall be considered as two (2) feet; the proposed supply shall not be required to cross interstate highway or railroad systems. Property owners connecting to community water supply systems under this subsection shall be required to extend the water main along the public right-of-way utility easements which abut the property.

3. **Review for approval.** Request for PBCPHU approval of amendments to the Official Zoning Map, site plan, subdivision and building permit matters shall be reviewed in light of the regulations of this section.

4. **Fees.** All fees charged for the administration of this section shall be in accordance with the fee schedule pursuant to Ordinance No. 78-5 and the amendments thereto.

5. **Adoption of state standards.** Chapters 17-550, 551, 555, 560, 602 and 10D-4, F.A.C., and all amendments thereto, are hereby incorporated into this section. In the event of a conflict between the provisions of Chapters 17-550, 551, 555, 560, 602 and 10D-4, F.A.C., and this section, the more restrictive provision shall apply.

D. Procedures. The PBCPHU shall review and approve, approve with conditions, or deny any construction or use of any water supply system or facility based on the standards contained in this section. Prior to submission to the PBCPHU, plans involving distribution mains shall be reviewed by the Fire Marshall or by the appropriate fire department official.

1. **Construction permits.** No person shall install, extend or alter any water supply system or facility including any well, plant, tank, pump station, distribution system, fire line or other pipe or structures without first obtaining a construction permit from the PBCPHU.

   a. **Evidence of other approvals.** Newly proposed community, non-community, non-transient non-community and semi-public water systems shall provide evidence of their ability to secure a water use permit from SFWMD and proper district designation prior to PBCPHU approval.

   b. **Application and required information.** The applicant shall provide the necessary information and design specifications requested and required by the PBCPHU to conduct an adequate review of any proposed activity or construction in addition to that information provided on the DER application forms. The plans, applications and specifications for community, non-community or non-transient non-community water systems shall be prepared by a professional engineer, licensed in the State of Florida.

   c. **Water supplier's stamp.** Any submittal for community water systems, for which the supplier of water is not the applicant but will require ownership, operation or maintenance by the supplier of water, shall require the acceptance stamp of the supplier of water on the plans.

   d. **Construction permit exemptions.** A permit shall not be required for distribution extensions or service connections of less than four hundred (400) feet of one (1) inch pipe, two hundred (200) feet of two (2) inch pipe, one hundred (100) feet of four (4) inch or larger pipe, or road crossing with less than four (4) inch pipe when system capacity is adequate as specified in Sec. 16.2.J.19.

   e. **Inter-jurisdictional extensions.** Any extension of a distribution system within Palm Beach County for which the water supply facility is not located within Palm Beach County, or distribution extension outside Palm Beach County when the water supply facility is located within Palm Beach County, shall require a permit from the PBCPHU and written acceptance of the development from the responsible agency outside the County. During construction, partial releases may be given by the PBCPHU. However, the pressure and leakage test and the disinfection and bacteriological procedures shall be followed in all cases.

2. **Approval of water systems.** No person shall put into service or use any drinking water system or facility, including any well, plant, tank, pump station, distribution system, fire line or other pipes or structure without first having received written approval from the PBCPHU.

   a. **Submittal requirements.** Upon completion of construction and satisfactory chemical and bacteriological clearance of the water supply system or facility, the engineer of record shall submit to the PBCPHU the following:

      (1) Certification of completion,
      (2) Record ("as built") drawings on which sampling points must be highlighted,
      (3) Chemical and bacteriological sample results, and
      (4) If the approval involves a well, a "Well Completion Report."

   b. **Certification of completion.** The Certification of completion for the water supply or facility shall include certification of any accompanying sewerage system and evidence of the acceptance of the system or facility by the supplier of water.

   c. **Construction meters.** Uses of construction meters for construction water may be approved by the PBCPHU in cases when accompanying sewer has not been certified if the PBCPHU determines the water facility has been satisfactorily tested and certified by the engineer of record.

   d. **Well completion reports.** The Well Completion Report for all water supply wells shall be submitted to the PBCPHU according to Sec. 16.2.J.11.

   e. **Water main connections.** The connection of new water mains to existing mains shall not be completed until after the new mains have passed their pressure and leakage test and completed the disinfection and bacteriological clearance procedures. During construction partial releases may be given by the PBCPHU. However, the pressure and leakage test and the disinfection and bacteriological procedures shall be followed in all cases. No water supply system or facility, including any well, plant, tank, pump station, distribution system, or other pipes or structure through which water is delivered to the consumer for drinking or household purposes, except certain community water supply service connections not requiring a permit, shall be put into service or used until such facility has been effectively disinfected and bacteriologically cleared. Sample results shall be submitted to the PBCPHU as follows:

      (1) For all water systems, except wells, two (2) consecutive daily samples with the total coliform bacteria count not exceeding one (1) coliform per hundred (100) milliliters of the sample shall be required.
      (2) For a community, non-community or non-transient non-community water supply system well clearances, a minimum of twenty (20) consecutive workday samples are required with no more than two (2) samples taken daily. Well sample results for community or non-community water supply system well clearance shall not exceed four (4) coliform per hundred (100) millimeters of the sample in more than ten (10) percent of the samples analyzed.
      (3) For a semi-public or private water supply system well clearance, a minimum of three (3) consecutive daily samples are required. The well sample results shall not exceed more than one (1) coliform per hundred (100) millimeters as an average.

(4) Any sample analysis with heavy and/or too numerous to count (TNTC) non-coliform counts shall not be accepted.

(5) Sample results from any water supply facility or well shall not be accepted if more than thirty (30) calendar days has elapsed since the taking of the last sample.

E. Water quality standards. The following maximum contaminant levels shall not be exceeded in any system to which they apply:

1. **Maximum microbiological contaminant levels.** The following contaminant levels for coliform bacteria are applicable to all drinking water systems including individual water systems:

a. When the membrane filter technique is used, the number of total coliform bacteria shall not exceed any of the following:

(1) One (1) per one hundred (100) milliliters as the arithmetic mean of all samples examined per month.

(2) Four (4) per one hundred (100) milliliters in more than five (5) percent of the samples examined per month.

b. When the fermentation tube method and ten (10) milliliters standard portions are used, coliform bacteria shall not be present in any of the following:

(1) More than ten (10) percent of the portions in any month.

(2) Three (3) or more portions in more than five (5) percent of the sample examined per month.

c. When the fermentation tube method and one hundred (100) milliliter standard portions are used, coliform bacteria shall not be present in any of the following:

(1) More than sixty (60) percent of the portions in any month.

(2) Five (5) portions in more than twenty (20) percent of the samples examined per month.

2. **Primary inorganic chemical contaminant levels.** The maximum contaminant levels for primary inorganic chemicals are applicable to community, non-transient non-community and non-community supply systems, except that the standard for nitrates is applicable to semi-public, as well as community, non-transient non-community and non-community systems.

Contaminant	Maximum Level (Milligrams per Liter)
Arsenic	0.05
Asbestos (medium and long fibers)	7.1 million fibers/liter
Barium	1.0
Cadmium	.005
Chromium	.05
Fluoride	4.0
Lead	0.02
Mercury	0.002
Nitrate (as N)	10.0
Nitrite	1.0
Selenium	0.01
Silver	0.05
Sodium	160.0

3. **Primary organic chemical contaminant levels.** The following maximum contaminant levels for organic chemicals shall apply to community water systems:

Contaminant	Maximum Level (Milligrams per Liter)
CHLORINATED HYDROCARBONS:	
Endrin (1,2,3,4,10, 10-hexa-chloro-6,7-epoxy-1,4,4a,5,6,7, 8,8a,-octa-hydro-1,4,-endo,endo-5,8 -dimethano naphthalene)	0.0002
Lindane (1,2,3,4,5,6,-hexachloro-cyclohexane, gamma isomer)	0.004
Methoxychlor (1,1,1 - Trichloro-2,2-bis (p-methoxyphenyl) ethane)	0.1
Toxaphene (C H Cl -Technical Chlorinated camphene 67-69% chlorine)	0.005
CHLOROPHENOXYS:	
2,4-D (2,4-Dichlorophenoxyace-tic acid)	0.1
2,4,5 - TP Silvex (2,4,5,-Trichlorophenoxypropionic acid)	0.01

4. **Drinking water turbidity contaminant levels.** The maximum contaminant levels for turbidity in drinking water for community and non-transient non-community water systems measured at a representative entry point(s) to the distribution system(s) or at other points that may be significant to post-precipitation condition or iron precipitate buildup and release is one (1) turbidity unit (NTU), as determined by a monthly average.

5. **Maximum radionuclides contaminant levels.** The following maximum contaminant levels for radionuclides shall apply to community and non-transient non-community water systems:

   a. Radium-226, radium-228 and gross alpha particle radioactivity.

      (1) Combined radium-226 and radium-228---5 Pci/1.
      (2) Gross alpha particle activity (including radium 226 but excluding radon and uranium)---15 Pci/1.

b. Beta particle and photon radioactivity from man-made radionuclides.

(1) The average annual concentration of beta particle and photon radioactivity from man made radionuclides in drinking water shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem/year.

(2) Except for the radionuclides listed in the table below in this subsection, the concentration of man made radionuclides causing four (4) millirem total body organ dose equivalents shall be calculated on the basis of a two (2) liter per day drinking water intake using the one hundred sixty-eight (168) hour data listed in "Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupation Exposure" NBS Handbook 69 as amended August, 1963, U.S. Department of Commerce. If two (2) or more radionuclides are present, the sum of their annual dose equivalent to the total body or to any organ shall not exceed four (4) millirem/year. Average Annual Concentration Assumed to Produce a Total Body organ Dose of four (4) millirem/year.

Radionuclide	Critical Organ	Pci per Liter
Tritium	Total Body	20,000
Strontium-90	Bone Marrow	8

6. **Secondary inorganic chemical maximum contaminant levels.** The following maximum contaminant levels for secondary inorganic contaminants shall apply to community water systems:

Contaminant	Maximum Level (Milligrams per Liter)*
Chloride	250
Color	15 color units
Copper	1.0
Corrosivity	Neither corrosive nor scale forming**
Fluoride	2.0
Foaming Agents	0.5
Iron	0.3
Manganese	0.05
Odor	3 (threshold odor number
Ph	6.5-9.5 range
Sulphate	250
Total Dissolved Solids at 103-105 degree C	500
Zinc	5.0

* except color, odor, corrosivity and Ph

** Assessment of degree of corrosion or scale forming tendencies must be based on historical water characteristics of the system. A Langelier index range of -0.2 to +0.2 should be used as a guideline toward obtaining water stability if calcium carbonate is present. If stabilizers are used, the -0.2 to +0.2 range may not be applicable.

7. **Trihalomethane.** The following maximum contaminant levels are for trihalomethanes (THMs), as set forth in Sec. 16.2.E.8, and water supply systems serving a population of ten thousand (10,000) or more individuals and which add a disinfectant (oxidant) to the water in any part of the drinking water treatment process.

8. **Total trihalomethanes**. Total Trihalomethanes (TTHM) shall include the sum of the concentrations bromodichloromethane, dibromochloromethane tribomomethane (bromoform) and trichloromethane (chloroform) at 0.10 mg/1 (MCL).

9. **Volatile organics.** The following maximum contaminant levels (MCLs) for volatile organics are applicable to all community and non-transient non-community water systems. These concentrations are based on present "state of the art" analytical detection limits as applied to routine sampling, risk analysis, carcinogenicity and chronic toxicity, and may be altered in the future, commensurate with increasing laboratory capability or future data indicating adverse effects on human health.

Contaminant	Maximum Level (Milligrams per Liter)
Trichloroethylene	3
Tetrachloroethylene	3
Carbon Tetrachloride	3
Vinyl Chloride	1
1,1,1 - Trichloroethene	200
1,2 - Dichloroethane	3
1,1 - Dichloroethylene	7
Benzene	1
p - Dichlorobenzene	75
Ethylene Dibromide	0.02 (sample before chlorination)

10. **Synthetic organics.** Analyses for purgeables, pesticides base neutral extractable and acid extractables shall be performed as specified in Chapter 17-550, F.A.C., as amended from time to time.

F. Water monitoring requirements.

1. **Microbiologicals and chlorine residual monitoring.** Monitoring of water systems shall be provided by the supplier of water as follows.

   a. **Community water systems.** For community water systems, coliform density samples shall be taken from the distribution system at regular time intervals and in a number proportionate to the maximum population served by the system. Sample locations shall be varied to provide a representative cross section of the water supplied to users. The number and minimum frequency of samples shall be as follows. In addition, a minimum of one (1) representative raw water sample per month shall be taken.

Population Served	Minimum Number of Samples Per Month
25-2,500	2
2,501-3,300	3
3,301-4,100	4
4,101-4,900	5
4,901-5,800	6
5,801-6,700	7
6,701-7,600	8
7,601-8,500	9
8,501-9,400	10
9,401-10,300	11
10,301-11,100	12
11,101-12,000	13
12,001-12,900	14
12,901-13,700	15
13,701-14,600	16
14,601-15,500	17
15,501-16,300	18
16,301-17,200	19
17,201-18,100	20
18,101-18,900	21
18,901-19,800	22
19,801-20,700	23
20,701-21,500	24
21,501-22,300	25
22,301-23,200	26

Population Served	Minimum Number of Samples Per Month
23,201-24,000	27
24,001-24,900	28
24,901-25,000	29
25,001-28,000	30
28,001-33,000	35
33,001-37,000	40
37,001-41,000	45
41,001-46,000	50
46,001-50,000	55
50,001-54,000	60
54,001-59,000	65
59,001-64,000	70
64,001-70,000	75
70,001-76,000	80
76,001-83,000	85
83,001-90,000	90
90,001-96,000	95
96,001-111,000	100
111,001-130,000	110
130,001-160,000	120
160,001-190,000	130
190,001-220,000	140
220,001-250,000	150
250,001-290,000	160
290,001-320,000	170
320,001-360,000	180
360,001-410,000	190
410,000-450,000	200
450,001-500,000	210
+500,000	220

b. **Noncommunity and semi-public systems.** For non-community and semi-public water systems, a sample for total coliform bacteria shall be taken from the distribution system in each calendar quarter during which the system provides water to the public, except for non-transient non-community water supply systems which shall monitor monthly.

c. **Community, non-transient non-community and non-community systems.** For community, non-transient non-community and non-community water systems, the following monitoring requirements shall apply:

(1) When the bacteria in a single sample exceeds four (4) coliform per one hundred (100) milliliter or moderate non-coliform count using the membrane filter technique, daily repeat samples shall be collected and examined from the same sampling point until the results obtained from at least two (2) consecutive repeat samples show less than one (1) coliform bacterium per one hundred (100) milliliters and moderate or lower non-coliform count.

(2) When coliform bacteria occur in three (3) or more ten (10) milliliter portions of a single sample using the fermentation tube method, daily repeat samples shall be collected and examined from the same sampling point until the results obtained from at least two (2) consecutive repeat samples show no positive tubes.

(3) When coliform bacteria occur in all five (5) of the one hundred (100) milliliter portions of a single sample using the fermentation tube method, daily check samples shall be collected and examined from the same sampling point until the results obtained from at least two (2) consecutive check samples show no positive tubes.

(4) The location at which the repeat samples were taken pursuant to the above paragraphs of this subsection shall not be eliminated from future sampling without approval of the PBCPHU.

(5) Repeat samples shall be taken within forty-eight (48) hours of the time the supplier of water learns of the failure unless the State Laboratory is closed, in which case seventy-two (72) hours shall be allowed.

d. **Semi-public systems.** For semi-public water systems, the following monitoring requirements shall apply:

(1) Where coliform bacteria in a single sample from these water systems exceed one (1) per one hundred (100) milliliters using the membrane filter technique, at least two (2) consecutive daily repeat samples shall be collected and examined from the same sampling points. Additional repeat samples shall be collected daily or at a frequency established by the PBCPHU until satisfactory results are obtained from at least two (2) consecutive repeat samples. These samples shall show less than one (1) coliform bacteria.

(2) When coliform bacteria occur in one (1) or more ten (10) milliliter portions of a single sample using the fermentation tube method, at least two (2) consecutive daily repeat samples shall be collected and examined from the same sampling point. Additional repeat samples shall be collected daily at a frequency established by the PBCPHU until the results obtained from at least two (2) consecutive repeat samples show no positive tubes.

e. **Well and surface water sources.** Water samples shall be taken from each well and/or surface water source at the following intervals and analyzed for total coliform density as follows:

(1) Monthly for community and non-transient non-community water systems; and
(2) Quarterly for non-community and semi-public water systems.

f. **Calculation of contaminant levels.** The result from all total coliform bacterial analyses performed pursuant to Sec. 16.2.E.1 shall be used to determine compliance with the maximum contaminant level for total coliform bacteria. Repeat samples shall not be included in calculating the total number of samples taken each month.

g. **Special purpose samples.** Special purpose samples, such as those taken to determine whether disinfection practices following pipe placement, replacement or repair have been sufficient, shall not be used to determine compliance with Secs. 16.2.E.1 or 16.2.F.1.a. However, the supplier of water may undertake a complete bacteriological survey of the system, if time permits, in an attempt to meet the average count and five (5) percent standards.

h. **Reporting of residuals.** The free and total chlorine residual or combined residual at all treated water bacteriological sample points shall be measured at the time of sampling and reported along with the results of the bacterial analyses.

2. **Primary inorganic chemicals monitoring.** Monitoring for primary inorganic chemicals shall be provided by the supplier of water as follows:

a. **Community systems.** For community water systems using surface water, two sample analyses for each chemical listed in Sec. 16.2.E.2, 2.E.3 shall be provided on an annual basis. For community water systems and non-transient non-community water supply systems using groundwater, two (2) sample analyses for each chemical listed in Sec. 16.2.E.5 shall be provided once every three (3) years except for systems with chlorination only treatment. Such samples shall be of a composite of all raw water sources and the finished water from a representative point in the distribution system. The distribution sample point shall be moved from year to year to give complete coverage of the distribution system. Only the distribution sample analysis shall be provided when chlorination is the only treatment given the water.

b. **Non-community systems.** For non-community water systems, a single analysis of the finished water for each chemical listed in Sec. 16.2.E.2 shall be provided once every five (5) years.

3. **Primary organic chemical monitoring.** Monitoring for primary organic chemicals shall be provided by community water system suppliers as follows:

a. **Surface water.** For water systems using surface water in whole or in part, two (2) sample analyses for the chemicals specified in Sec. 16.2.E.2 shall be provided on an annual basis. Such water samples shall be of a composite of all raw water sources and the finished water from a representative point of the distribution system.

b. **Ground water.** For water systems using ground water, two (2) sample analyses shall be provided as in Sec. 16.2.F.3.a above, except that such analyses shall be required only once every three (3) years and systems with chlorination only treatment shall only provide the distribution sample analysis.

4. **Physical contaminants monitoring.** Monitoring for physical contaminants shall be provided by the supplier of water for community and non-transient non-community water systems as follows:

a. **Chlorine-only treatment systems.** For water supplies using a treatment of only chlorination, monthly analyses for turbidity, color and threshold odor number shall be provided on the composite raw and finished water.

b. **Chlorine-plus treatment systems.** For water supplies using treatment in addition to chlorination, analyses shall be provided on composite raw and finished water at the following frequency:

Turbidity	Daily
Color	Daily
Threshold Odor: Surface Water Ground Water	 Once a month Quarterly

c. **All systems.** For all water supplies, monthly analyses for turbidity, color and threshold odor number shall be provided from a representative point(s) of the distribution system on a basis of one (1) set of analyses for each twenty thousand (20,000) population served or fraction thereof. Sample point locations shall be moved monthly to ensure a complete coverage of the distribution system. Additional samples may be required based upon complaints.

5. **Radionuclide monitoring in community systems.** Monitoring for radionuclides shall be provided by the supplier of water for community water systems and non-transient non-community water supply systems, as follows:

a. The analysis of water for gross alpha particle activity, radium-226 and radium-228, sampled from the distribution system shall consist of an annual composite of four (4) consecutive quarterly samples or the average of the analyses of four (4) samples obtained at quarterly intervals.

(1) A gross alpha particle activity measurement may be substituted for the required radium-226 and radium-228 analysis provided that the measured gross alpha particle activity does not exceed five (5) Pci/1 at a confidence level of ninety-five (95) percent (1.65 where 6 is the standard deviation of the net counting rate of the sample). In localities where radium-228 is known to be present or may reasonably be expected to be present in drinking water, radium-226 and/or radium-228 analyses shall be provided when the gross alpha particle activity exceeds two (2) Pci/1.

(2) When the gross alpha particle activity exceeds five (5) Pci/1, the same or an equivalent sample shall be analyzed for radium-226. If the concentration of radium-226 exceeds three (3) Pci/1, the same or an equivalent sample shall be analyzed for radium-228.

b. Suppliers of water shall monitor for radionuclides at least once every four years. When an annual record taken in conformance with Sec. 16.2.F.5.a above has established that the average annual concentration is less than half the maximum contaminant level, an analysis of a single sample may be substituted for the quarterly sampling procedure during the next sampling year and during subsequent sampling years for as long as the concentration remains at less than half the maximum contaminant level.

c. A supplier of water shall begin monitoring in conformance with Sec. 16.2.F.5.a within one (1) year of the introduction of a new water source.

d. All community water systems serving more than ten thousand (10,000) population shall monitor composite raw source water in the specified manner as provided for in Sec. 16.2.F.5.

e. Monitoring for compliance with this after the initial period need not include radium-228 except when required by the PBCPHU, provided that the average annual concentration of radium-228 has been assayed at least once using the quarterly sampling procedure required by Sec. 16.2.F.5.a.

f. Community water systems using surface water sources in whole or in part and serving more than one hundred thousand (100,000) persons and such other community water systems as are designated by the PBCPHU shall monitor for beta particle and photon radioactivity by analysis of a composite of four (4) consecutive quarterly samples. Monitoring shall be conducted every four (4) years. Compliance with Sec. 16.2.E.5 may be assumed if the average annual concentration of gross beta particle activity is less than fifty (50) Pci/1 and if the average annual concentrations of tritium and strontium-90 are less than those listed in Sec. 16.2.E.5.b, provided that if both radionuclides are present, the sum of their annual dose equivalents to bone marrow shall not exceed four (4) millirem/year.

g. If the gross beta particle activity exceeds fifty (50) Pci/1, an analysis of the sample must be performed to identify the major radioactive constituents present; and the appropriate organ and total body doses shall be calculated to determine compliance with Sec. 16.2.E.5.b.

6. **Secondary inorganic contaminants monitoring in community systems.** Monitoring for secondary inorganic contaminants in community water systems shall be provided by the supplier of water as follows:

a. Two (2) samples for the contaminants specified in Sec. 16.2.E.6 shall be provided to the PBCPHU by each supplier using surface water sources, one during the wet season and the other during the dry season.

b. One sample for the contaminants specified in Sec. 16.2.E.6 shall be provided annually to the PBCPHU by each supplier using groundwater sources.

c. Samples for Secs. 16.2.F.6.a and 16.2.F.6.b above shall be taken from a representative entry point to the water distribution system.

7. **Trihalomethanes, volatile organics and synthetic organics monitoring.** Monitoring for trihalomethanes, volatile organics and synthetic organics shall be provided by the supplier of water for water systems in accordance with, and as specified in Chapter 17-550, F.A.C., and as it may be amended from time to time.

8. **Microbiological and chlorine residual monitoring in consecutive community and non-community systems.** Consecutive community and non-community water systems shall provide microbiological and chlorine residual monitoring in a manner complying with Sec. 16.2.F.1. The PBCPHU may require additional monitoring for primary or secondary contaminants from any consecutive system which, due to its size or other factors, merits such additional monitoring.

9. **Raw water monitoring for volatile and synthetic organics in community systems.** Community water systems shall monitor a composite raw water sample from each wellfield for volatile and synthetic organics including pesticides and herbicides every three years. The first sample results shall be submitted no later than June 1, 1989.

10. **Raw water monitoring in community and noncommunity systems.** Community and non-transient non-community water systems shall monitor for the following from each raw water source or well semi-annually:

Calcium, Ca
Chloride, Cl
Color
Iron, Fe
Nitrate, NO^3
Ph (Field)
Total dissolved solids at 103 degree - 150 degree C or
Conductivity
Total hardness, as Co^3

G. **Sampling and analytic methods.**

1. **Sampling procedures.** All water samples required under this section for community, non-community, non-transient non-community and semi-public water systems, including well and main clearance, shall be taken by an employee of a laboratory certified to perform drinking water analyses by the Department of Health and Rehabilitative Services in a accordance with Sec. 403.863, Fla. Stat., and Chapter 10D-41, F.A.C., or an operator certified under Chapter 17-602, F.A.C., or an employee of the PBCPHU. Water samples for private well clearance shall be taken by the licensed well contractor that installed the well or his representative.

2. **Certified laboratories.** All water samples shall be analyzed by a laboratory certified to perform drinking water analyses by the Department of Health and Rehabilitative Services in accordance with Sec. 403.863, Fla. Stat., and Chapter 10D-41, F.A.C.

3. **Methods of analysis.** Analyses conducted to determine compliance with this section shall be made in accordance first with the methods specified in Chapter 17-550, F.A.C., and if not specified then in accordance with "Standard Methods of Examination of Water and Wastewater," 17th Edition, 1989, or methods approved by the United States EPA.

H. Reporting. The supplier of water of any community, non-community or non-transient non-community water supply system shall comply with the following reporting requirements in writing. However, the supplier of water is not required to report analytical results to the PBCPHU in cases where a Department of Health and Rehabilitative Services or DER's Laboratory performs the analysis and reports the results to the PBCPHU.

1. **Reporting period.** Except where a shorter reporting period is specified in this section, the results of any analysis required to be made under Sec. 16.2.F shall be reported to the PBCPHU within forty (40) calendar days following the analysis.

2. **Report contents.** Bacteriological results and physical contaminants results shall be reported with the monthly operation reports. The free and total chlorine residual at all treated water bacteriological sample points shall be measured and reported with the monthly operation reports along with the results of the bacterial analyses. When the presence of coliform bacteria in water taken from a particular sampling point has been confirmed by any repeat samples, the supplier of water shall report such confirmation to the PBCPHU within forty-eight (48) hours.

3. **Plant operation reports.** Water plant monthly operation reports shall be submitted to the PBCPHU within fifteen (15) calendar days after the end of that month. Operation reports are required of every community, non-community or non-transient non-community water supply which is required to have a certified operator under Chapter 17-602, F.A.C., or this section. Operation reports shall include water and chemical usage, emergency power operation, information required by this section and other data requested on the operation report forms supplied by the PBCPHU.

4. **Inorganic chemicals.** If the result of the analysis for primary inorganic chemicals indicates that the level of any contaminant in the finished water exceeds the maximum contaminant level, the supplier of water shall report said fact to the PBCPHU within forty-eight (48) hours of the time it receives the results and shall initiate and complete three (3) additional analyses for the suspect contaminant from the same sampling point within one (1) month. However, when a level exceeding the maximum contaminant level for nitrate is found, a second analysis shall be initiated within twenty-four (24) hours; and if the average of the two (2) analyses exceeds the maximum contaminant level, the supplier of water shall report its findings to the PBCPHU within forty-eight (48) hours of the time it receives the results.

5. **Primary organic contaminants.** If the results of the analysis for primary organic chemicals indicates the level of any contaminant in the finished water exceeds the maximum contaminant level, the supplier of water shall report said fact to the PBCPHU within forty-eight (48) hours of the time it receives the results and shall initiate and complete three (3) additional analyses for the suspect contaminant from the same sampling point within one (1) month.

6. **Turbidity.** For community and non-transient non-community water suppliers, if the result of a turbidity analysis indicates that the maximum allowable limit has been exceeded for the finished water, the sampling and measurement shall be confirmed by resampling within one (1) hour. If the repeat sample confirms that the maximum allowable limit has been exceeded, the supplier of water shall report the result to the PBCPHU within forty-eight (48) hours.

I. Notification. The supplier of water of any community, non-community or non-transient non-community water supply system shall comply with the notification requirements of this section.

1. **Notification of users.** Notices to users given pursuant to this section shall be written in the following manner. The notice shall be conspicuous and shall not use unnecessary technical language, unduly small print or other methods which would frustrate the purpose of the notice. The notice shall disclose all material facts, including the nature of the problem and, when appropriate, a clear statement that a drinking water regulation has been violated and any preventive measures that should be taken by the public. Where appropriate or when requested by the PBCPHU, bilingual notice shall be given. Notice may include an explanation of the significance or seriousness to the public health, an explanation of steps taken by the system to correct any problem and the results of any additional sampling. If the PBCPHU considers it appropriate, notices to the users required by this section may be given by the PBCPHU on behalf of the supplier of water.

2. **Notification of PBCPHU.** Notification to the PBCPHU shall be by telephone and in writing on the monthly operating report form. For community and non-transient non-community water supplies, if the monthly average of the daily samples for turbidity exceeds the maximum allowable limit or if the average of any two (2) samples on consecutive days, including repeat samples, exceeds five (5) NTU, the supplier of water shall report to the PBCPHU within forty-eight (48) hours and notify the users of the system. For purposes of calculating the monthly average, the repeat sample taken pursuant to Sec. 16.2.H.6 shall be the sample used.

3. **Notification of noncompliance.** If the average annual maximum contaminant level for gross alpha particle activity, man made radioactivity or total radium on the finished water, as set forth in Sec. 16.2.E.5 is exceeded, the supplier of water shall give notice to the PBCPHU and notify the users. Monitoring at quarterly intervals shall be continued until the annual average concentration no longer exceeds the maximum contaminant level or until a monitoring schedule as a condition to an enforcement action shall become effective. If a community water system fails to perform any monitoring required in Sec. 16.2.F for primary contaminants, or turbidity in the case of surface water suppliers, the supplier of water shall notify users of the system of the failure by inclusion of a notice in all water bills issued after the failure. The notice shall remain in effect until the failure is corrected.

   a. **Notification procedure.** If a supplier of water is required to notify users of the system because of failure to comply with an applicable maximum contaminant level, the users of the water shall be notified of such failure as follows:

      (1) By publication on not less than three (3) consecutive days in a newspaper of general circulation in the area served by the system. Such notice shall be completed within fourteen (14) days after the supplier of water learns of the failure.

      (2) If the area served by a community or non-transient non-community water system is not served by a daily newspaper of general circulation, notification by newspaper shall be given by publication on three (3) consecutive weeks in a weekly newspaper of general circulation serving the area and by furnishing a copy of the notice to the radio and television stations serving the area served by the system. Such notice shall be furnished within seven (7) calendar days after the supplier of water learns of the failure.

4. **Signs.** If a non-transient non-community or non-community water system fails to comply with an applicable maximum contaminant level established in Sec. 16.2.E or fails to comply with an applicable testing procedure established in Sec. 16.2.F, the supplier of water shall give notice of such failure to the persons served by the system by fixed signs located at all potable water outlets or connections.

5. **Potential water quality dangers.** In case of breakdown in purification or protective equipment, breaks in main transmission lines, loss of water pressure below twenty (20) p.s.i., abnormal taste or odor, any interruption of water service to users, or any circumstances which could affect the quality of the drinking water, it shall be the duty of the water supplier to notify the PBCPHU within one (1) hour of the occurrence. Notification shall include the following information:

   a. Description of the problem;
   b. Area affected;
   c. Number of connections or users affected;
   d. Estimated duration of problem; and
   e. Method of notification to users.

   Such information shall also be provided in writing on the monthly operation report.

6. **Loss of water or water pressure.** If the water is shut off to the users and/or the water pressure falls below 20 p.s.i., notification shall be given immediately to the users either by written notice or through the media of newspaper, radio or television of the interruption of water service and/or the necessity to boil water. The notice to boil water shall remain in effect until two (2) consecutive days of satisfactory bacteriological sample results have been obtained from the area affected. The PBCPHU shall notify the water supplier when the boil water notice may be rescinded. Where public fire protection is provided by the mains affected by the interruption, the utility shall notify the Fire Marshall or the appropriate Fire Department official that an interruption has occurred or will occur.

J. **Design and construction requirements.** The design and construction requirements of this section shall govern the construction, extension, expansion or use of any community or non-community water supply system. The design standards specified in Chapter 17-550 and Chapter 10D-4, F.A.C., as well as other standards considered as modern sanitary engineering practices shall also apply to the construction, extension, expansion or use of any community or non-community water supply system. The design standards in the following reference works are incorporated into this Code. If any differences in design standards exists, the more stringent standard shall apply.

Technical Volume	Author, Publisher and Address
Manual for Evaluating Public Drinking Water Supplies, Current Edition	U.S. Environmental Protection Agency; Superintendent of Documents, U.S. Government Printing Office; Washington, D.C., 20402
Water Treatment Plant Design, Current Edition	American Society of Civil Engineers, American Water Works Association, and Conference of State Sanitary Engineers; American Water Works Association, Inc.; 66666 West Quincy Avenue, Denver, CO
Recommended Standards for Water Works, Current Edition	Great Lakes—Upper Mississippi River Board of State Sanitary Engineers; Health Education Service; P.O. Box 7283, Albany, NY 12224
Water Quality Treatment, Current Edition	American Water Works Association; 66666 West Quincy Avenue, Denver, CO
Standards of the American Water Works Association, Current Edition	American Water Works Association; 66666 West Quincy Avenue, Denver, CO
Manual of Treatment Techniques of Meeting the Interim Primary Drinking Water Regulations, May 1977	U.S. Environmental Protection Agency, Office of Research and Development, EPA-600, 8-77-055
Water Fluoridation Manual, October, 1985	National Fluoridation Engineer; U.S. Center for Disease Control; Atlanta GA

1. **Lead.** Lead pipes, solder and flux are prohibited for use in the installation or repair of any drinking water system as of the effective date of this section. This does not apply to leaded joints necessary for the repair of cast iron pipes. Solders and fluxes must contain not more than two-tenths (0.2) of one (1) percent lead and fittings not more than eight (8) percent lead.

2. **Number of wells and pumps.** A minimum of two (2) drinking water supply wells and pumps shall be provided for each community water system that will serve three hundred fifty (350) or more persons upon completion of construction.

3. **Licensing of contractors.** All water wells shall be constructed by a water well contractor licensed by the SFWMD in accordance with Chapter 17-21 and Chapter 17-550, F.A.C., and Chapter 40E-3, F.A.C.

4. **Vertical well casings.** The vertical well casing shall extend at least six (6) inches above ground or into an approved sump pit. Whenever the pump is not set at the vertical casing, the line between the vertical casing and pump shall be considered an extension of the casing and protected from sanitary hazards in a similar manner as the casing.

5. **Community, non-community and non-transient noncommunity wells and on-site disposal systems.** For community, non-community, and non-transient non-community water systems having on-site sewage disposal with flows greater than two thousand (2,000) gallons per day, as estimated in accordance with Sec. 16.1, wells shall be placed a minimum distance of two hundred (200) feet from the disposal system. However, when on-site sewage disposal flows are less than two thousand (2,000) gallons per day, as estimated in accordance with Sec. 16.1, wells shall be placed a minimum of one hundred (100) feet from the disposal unit. These distances may be increased if required under Sec. 16.1.E.1.a.(1)(a), 1.F.4.n.

6. **Semi-public wells and on-site sewage disposal systems.** Semi-public wells shall be placed a minimum distance of one hundred (100) feet from any septic tank or drainfield. This distance may be increased if required under Sec. 16.1.E.1.a(1)(a), 1.F.4.n.

7. **Private wells and on-site sewage disposal systems.** Private water wells shall be placed a minimum distance of seventy-five (75) feet from any septic tank, drainfield or brine disposal area.

8. **Separation of wells from other possible contaminant sources.** Community, non-community, non-transient non-community, and semi-public water wells shall be located a minimum distance of:

   a. One hundred (100) feet from other pollution sources, including but not limited to drainage wells, gasoline or other petroleum product underground storage tanks, water softener brine disposal areas or other waste disposal areas except as otherwise provided in Sec. 9.4, Wellfield protection.

   b. Fifty (50) feet from any non-drinking water well, pond, canal, or other body of water.

   c. Twenty-five (25) feet from poisoned soils, including but not limited to, building foundations.

   d. Five hundred (500) feet from any sanitary landfill or recognized hazardous or toxic waste site.

9. **Construction of semi-public and private wells.** For semi-public and private water system wells, construction shall be in accordance with standards specified in Chapters 10D-4 and 40E-3, F.A.C., as amended or transferred.

10. **Waste collection and transmission lines.** Any waste collection or transmission line within the defined locations shall be constructed in accordance with current American Water Works Association, Inc., water main standards, including the passing of the appropriate pressure and leakage tests.

11. **Post-construction reporting.** Within thirty (30) days after the completion of the construction or repair of any drinking water well, the water well contractor shall submit a report to the PBCPHU on the approved forms in accordance with the instructions provided thereon.

12. **Protective fencing.** Wells shall be enclosed within protective fencing when access is open to the general public.

13. **Cones of influence.** The cone of influence of a new well or wells serving a community water supply system shall comply with the requirements of the Sec. 9.4, Wellfield protection.

14. **Closure of abandoned wells.** All wells formerly serving water supplies which have been abandoned or which use has been permanently discontinued shall be plugged by filling them from the bottom to the top with neat cement grout, concrete or other method approved by the PBCPHU.

15. **Emergency power systems.** All existing community systems serving three hundred fifty (350) or more persons and all newly proposed community systems shall be equipped with a source of auxiliary power to allow operation of the raw water supply, water treatment units and pumping capacity. In addition, such systems shall be provided with automatic start-up devices except where elevated storage or twenty-four (24) hours per day, seven (7) day per week operation is provided. Such emergency power shall be of a sufficient capacity to operate the water supply facility at one-half (½) design capacity. A minimum fuel supply for one week of continuous operation for each item of auxiliary power shall be maintained at the water treatment plant or under the control of the utility and reserved for the water treatment plant. Any fuel pumps required to transfer the fuel to the auxiliary power units shall be equipped with their own auxiliary power or manual pumping system.

16. **Reserve chlorine supplies.** All community, non-community systems, and non-transient non-community systems, including semi-public systems where applicable, shall maintain a minimum reserve supply of chlorine for emergency conditions. Such reserve shall be figured for fourteen (14) days consumption for systems using gas chlorine and seven (7) days consumption for systems using hypochlorite solution. The consumption shall be based as a minimum on fifty (50) percent of design capacity.

17. **Disinfection.**

    a. **Community, non-community, or non-transient non-community water systems.** Community, non-community, or non-transient non-community water supplies shall be designed to maintain a minimum continuous and effective free chlorine residual of 0.2 mg/1 liter or equivalent disinfection if other than free chlorine is used as the disinfection measure throughout the system. When utilizing chlorine in combination with ammonia, a minimum combined residual of 0.6 mg/1 liter shall be maintained.

    b. **Semi-public water systems.** The department shall require disinfection if bacteria is discovered in any sample of water.

    c. **Chlorination facilities.** A minimum of two (2) chlorination facilities at the water treatment plant shall be provided for each community water system. Each chlorinator shall be of adequate capacity to supply the total demand of the raw water at the rated capacity of the treatment plant. Where more than two (2) chlorinators are available, adequate capacity to supply the total chlorine demand of the raw water shall be provided with the largest unit out of service. Disinfection other than chlorination will be considered on an individual basis by the PBCPHU.

    d. **Booster chlorination facilities**. Booster chlorination facilities in the distribution system shall be provided along with the necessary controls to maintain free chlorine residuals or equivalent disinfection within the acceptable range of 3.0 mg/1 liter maximum and 0.2 mg/1 liter minimum or a minimum combined residual of 0.6 mg/1 liter when utilizing chlorine in combination with ammonia.

18. **Water treatment plant and storage.** The approved design capacity shall be adequate to provide for the maximum day demand plus fire flow requirements and maintain the water quality standards specified in this Code.

19. **Distribution.**

a. **Water pressure.** The sizing of the distribution lines shall be adequate to provide both of the following without the development of distribution pressures lower than twenty (20) pounds per square inch (psi):

(1) maximum day demand plus fire flow requirements and
(2) maximum hourly demand.

b. **Line size.** Except for repair or replacement of existing lines, the size of new piping for any community system shall be no less than six (6) inch diameter unless a departure in sizing is justified by hydraulic analysis or historic analysis and future water use for the area and is approved by the PBCPHU based on such circumstances.

c. **Responsibility for operation and maintenance.** In metered distribution systems, the supplier of water shall be responsible for operation maintenance and repair of new water lines up to and including the water meter.

d. **Water main extensions.** Any new development or construction connecting to an off-site water main shall provide an extension of that water main along the public right-of-way or utility easements abutting the property.

e. **Fire hydrants.** Fire hydrants shall be maintained by the owner in accordance with standards established by the "Standards of the American Water Works Association." If a fire hydrant is located downstream of a water meter, the meter shall be designed to provide an adequate flow without excessive pressure drop. Private fire hydrant owners shall be required to request a dedicated private fire line, separate from any drinking water line, where an excessive drop through a metered source exists.

f. **Fire flows.** The required fire flow from fire hydrants approved for installation prior to the effective date of this section shall be a minimum of five hundred (500) gallons per minute for two (2) hours. Those approved after the effective date of this section shall meet the following requirements.

(1) **Residential subdivision.** In single-family or duplex dwellings not exceeding two (2) stories in height, the system shall provide capability for fire flow of at least five hundred (500) gallons per minute.
(2) **Multi-family dwellings of 3 or more units.** Commercial, institutional, or industrial subdivisions, or other high daytime or nighttime population density developments; in new subdivisions which include these developments fire hydrants in the areas of such development shall provide a minimum fire flow of fifteen hundred (1,500) gallons per minute. However, a lower or higher flow may be required by the fire marshall or by the appropriate fire department official according to the Insurance Services Office recommendations.
(3) **Minimum fire flows for all systems.** All systems shall have sufficient storage or other facilities so that the minimum fire flow will be maintained for at least four (4) hours or the current recommendations of the Insurance Services Office, whichever is greater.

g. **Dead-end lines.** Dead end lines shall be minimized by the looping of all mains where possible. Where dead end lines occur, they shall be provided with flush hydrants, fire hydrants or blowoffs for flushing purposes.

h. **Demand at 80%.** When the distribution demand, as determined in Sec. 16.2.J.19 above, reaches eighty (80) percent of approved design capacity, the supplier of water shall initiate the procedures for water treatment plant expansion. In the event expansion procedures are not initiated, the system shall be considered inadequate for additional distribution expansion, and approval for additional distribution expansion shall not be granted.

i. **Demand at 90%.** When the distribution demand, as determined in Sec. 16.2.J.19.a above, reaches ninety (90) percent of the approved design capacity, the supplier of water shall have the water treatment plant expansion under construction. In the event construction is not underway, the system shall be considered inadequate for additional distribution expansion and approval for additional distribution expansion shall not be granted unless otherwise justified by an engineering report covering the circumstances and approved by the PBCPHU.

20. **Backflow prevention.** The following buildings, establishments or facilities connected to a drinking water supply system shall install and maintain backflow prevention devices complying with current American Water Works, Inc., standards: nursing homes, hospitals, mortuaries, funeral parlors, restaurants, sewage treatment plants, sewage lift stations, swimming pools and buildings using corrosive, toxic, infectious, radioactive or other substances which would be a health hazard if they entered a drinking water supply.

K. **Operation and maintenance.**

1. **Community, non-community and non-transient non-community water supply systems.** The following operation and maintenance requirements shall apply to community, non-community and non-transient non-community water supply systems, and shall also apply to semi-public water supply systems.

a. The supplier of water shall maintain all items of the water supply facility in the approved operational condition.

b. The supplier of water shall operate the water supply facility to produce continuously water meeting the pressure quality requirements of this section.

c. The supplier of water shall introduce no new source of water into the system, and no purification process or protective provisions shall be altered or discontinued or by-passed, except where the supplier of water notifies the PBCPHU and secures approval therefrom.

d. Cross-connection to community, non-community, non-transient non-community and semi-public water supply systems are prohibited. Upon detection of a cross-connection, the supplier of water shall either eliminate the cross-connection by installation of an approved backflow prevention device or discontinue service by providing a physical separation cross-connection.

e. The supplier of water shall establish a routine cross-connection control program and keep a maintenance log on each backflow prevention device connected to its system. Testing and maintenance on each backflow prevention device shall be performed by a certified backflow prevention device tester. The frequency of testing shall be a minimum of once per year or other schedule recommended by the manufacturer and approved by the PBCPHU. The cross-connection control program shall be established no later than December 31, 1988, and a copy of the program submitted to the PBCPHU by March 30, 1989.

f. The supplier of water shall establish a routine testing and maintenance program on each fire hydrant connected to its system. The frequency of testing shall be a minimum of once per year or other schedule recommended by the manufacturer and approved by the PBCPHU.

g. The supplier of water shall conduct the necessary flushing programs to remove lime, sand or other objectionable sediments, matter or material from its water system.

h. Each community, non-transient non-community and Non-community water system shall maintain a distribution map showing the general locations of the water lines and sizes, valves, fire hydrants, flush hydrants and any inter-connections. The scale of the distribution map shall be between two hundred (200) and one thousand (1,000) feet per inch or other scale acceptable to the PBCPHU. A microfilm quality copy of the current edition of this map shall be submitted to the PBCPHU by February 28, of each even numbered year. The PBCPHU may waive the submittal requirements for any water supply in which no significant change has taken place within the distribution system.

2. Community, non-community, and non-transient non-community water supply systems.

a. The supplier of water shall schedule planned water outages during periods of low water usage.

b. The supplier of water shall operate for at least fifteen (15) minutes all emergency power units at least once per week to ensure starting capabilities and continuously for four (4) hours under load once each calendar quarter to ensure dependability.

c. The supplier of water shall provide a certified operator as specified in Chapter 17-602, F.A.C., except that all community systems shall meet at least the State minimum Class "D" certified operator requirements specified in Chapter 17-602, F.A.C., as it may be amended or transferred.

d. The supplier of water shall operate the water supply facility to maintain continuously the free available chlorine residual or equivalent disinfection between 3.0 mg/1 and 0.2 mg/1 throughout the distribution system, and the total chlorine residual no greater than 5.0 mg/1. When utilizing chlorine in combination with ammonia, a minimum combined residual 0.6 mg/1 shall be maintained.

L. Emergency operation.

1. **Interconnections.** Where two (2) community water supply systems have distribution or transmission lines within one thousand (1,000) feet of each other, they shall provide an emergency interconnection between the two (2) systems when the PBCPHU determines that such a connection would be of benefit to the citizens of Palm Beach County. Such determination shall be based on the possibility of destruction of the water source or treatment system in the event of a disaster and the possible benefits in moving water between the systems. Such interconnecting lines shall be no smaller than the smallest of the two (2) lines being interconnected and shall be provided with at least one valve and any necessary flush points. If the two (2) water suppliers are unable to reach an agreement on the payment for installation of such an interconnection, each supplier shall pay the cost of construction from the supplier's line to the point of connection and shall pay fifty (50) percent of the cost of a meter and meter box if either party desires a meter and meter box. The point of connection shall be at the following:

   a. Municipal limits or franchise boundaries if the supplier's limits or boundaries are adjacent and contiguous.

   b. The midpoint of the municipal limits or franchise boundaries if the limits or boundaries are not adjacent and contiguous. The inter-connection shall be completed within one (1) year after the PBCPHU notifies the systems involved.

2. **Flushes, hydrants, taps and other emergency provisions.** Any community water system may be required to provide a flush or fire hydrant, water tap or other provision for securing an emergency water service from an existing main at a location that the PBCPHU determines would be of benefit to the citizens of the area. Such determination shall be based in part on the possibility of a prolonged power outage or other disaster which would render individual wells in the area unusable. Other considerations will include the density of individual wells in the area and the distance of the nearest possible potable water supply during an emergency. Such water taps shall be constructed within one hundred twenty (120) days of notification by the PBCPHU. It shall be the responsibility of Palm Beach County to secure an agreement with the community water system for use of that emergency water service.

M. Appeals. Persons aggrieved by a requirement, interpretation or determination of Secs. 16.2.C.2 and 16.2.J of this section made by the PBCPHU or the Environmental Control Officer may appeal to the Environmental Appeal Board by filing a written notice of appeal to the Environmental Control Officer. Only those appeals requesting relief from setbacks under Sec. 16.2.J or requesting an exemption from connection to a public or investor-owned community water supply under Sec. 16.2.C.2 shall be filed.

1. Fee. The notice of appeal shall be accompanied by a certified check or money order in the amount of $100.00 made payable to the PBCPHU, which shall be non-refundable, to defray the cost of processing and administering the appeal.

2. **Notice of appeal.** Each notice of appeal shall state the factual basis for the appeal and the relief requested. There shall be attached to each notice supportive materials and documents, including a site plan indicating proposed and existing individual sewage disposal systems and wells on the property that is the subject of the appeal and all other systems and conditions on neighboring properties which could affect the requirements of Secs. 16.2.C.2 or 16.2.J of this section if the appeal were granted. The Environmental Appeal Board may require such additional information as it deems necessary. A separate application must be filed for each site or system considered for an appeal. The burden of presenting supportive facts in the application shall be the responsibility of the person filing the appeal. The person filing the appeal shall have the burden of proving entitlement to relief. The PBCPHU and/or the Environmental Control Officer shall defend all appeals before the Environmental Appeal Board.

3. **Notice to property owner.** The person filing the appeal shall also submit to the Environmental Control Officer a list of the names and addresses of every property owner who may be affected by the granting of the appeal.

4. **Hearing.** A hearing on the appeal shall be set within sixty (60) calendar days of receipt of the notice of appeal by the Environmental Control Officer. This provision does not mean that the applicant is entitled to a hearing on the first available agenda following receipt of the notice of appeal.

5. **Rules of evidence.** Formal rules of evidence shall not apply to the hearing but fundamental due process shall be observed and shall govern the proceedings. All testimony shall be under oath. Irrelevant, immaterial or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons shall be admissible, whether or not such evidence would be admissible in the trial courts of Florida. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

6. **Rights.** The parties shall have the following rights: to be represented by counsel; to call and examine witnesses; to introduce exhibits; to cross-examine witnesses on any relevant matter, even though the matter was not covered in direct examination; and to rebut evidence.

7. **Environmental Appeal Board.** The Environmental Appeal Board shall hear and consider all facts material to the appeal and shall issue findings of fact based upon the greater weight of the evidence and shall issue an order affording the proper relief consistent with the powers granted herein. The findings and order shall be by motion approved by a majority of those members present and voting.

8. **Appeals.** In order to grant an appeal authorizing a new or existing well for use in lieu of connecting to a public or investor-owned community water supply, the Environmental Appeal Board must find that:

   a. Satisfactory ground water is available or can be obtained; and

   b. The well complies with all setbacks, construction standards and other requirements of this section and Chapters 17-21, 17-550, 10D-4 and 40E-3, F.A.C.; and

   c. Every reasonable effort has been made to obtain a water supply from a public or investor-owned community water supplier.

9. **Relief.** In order to grant relief from Secs. 16.2.C.2 or 16.2.J of this Code and related sections of Chapter 10D-4, F.A.C., the Environmental Appeal Board must find that:

   (1) Satisfactory ground water can be obtained; and
   (2) Every reasonable effort has been made to comply with the requirements of this section and Chapter 10D-4, F.A.C., in the location of the well; and
   (3) The proposed well complies with all construction standards and other requirements of this section and Chapters 17-21, 17-550, 10D-4 and 40E-3, F.A.C.; and
   (4) Advance notice shall be given to future purchasers of the semi-public and/or non-community water systems that the system shall be connected to a public or investor-owned community water supply when such a supply becomes available, and that the purchaser has certain operational requirements until such connection is completed.

10. **Conditions and safeguards.** Provided that the factual findings specified in Secs. 16.2.M.8 or 16.2.M.9 above are made, the Environmental Appeal Board may reverse, modify or affirm, wholly or partly, the requirement, interpretation or determination made by the PBCPHU or the Environmental Control Officer. In granting an appeal, the Environmental Appeal Board may prescribe appropriate conditions and safeguards consistent with this section. Violation of such conditions and safeguards, when made a part of the terms under which the appeal is granted, shall be deemed a violation of this section. The Environmental Appeal Board may also prescribe a reasonable time within which the action for which the appeal is granted shall be started or completed or both. Any decision of the Environmental Appeal Board shall be in the form of a written order.

11. **Change in facts.** If there is a change in the facts or circumstances supporting a request for relief after an order granting relief has been issued, then the applicant shall notify the PBCPHU. The PBCPHU may request the Environmental Appeal Board to revoke or amend the order.

12. **Termination of relief.** Except where the relief granted is to exempt an applicant from the requirement to connect to a public or investor-owned community water supply under Sec. 16.2.J, any relief granted shall automatically terminate upon the availability of a community water supply to the lot or parcel. Upon the request of the PBCPHU or the Environmental Control Officer, the Environmental Appeal Board may modify or rescind an order granting relief from the requirements to connect to a public or investor-owned community water supply under Sec. 16.2.C.2 if the conditions under which the appeal was granted no longer exist. Unless otherwise provided in an order issued pursuant to Sec. 16., relief granted under this section shall automatically lapse if action for which the appeal was granted has not been initiated within one (1) year from the date of granting such appeal by the Environmental Appeal Board or, if judicial proceedings to review the Environmental Appeal Board's decision shall be instituted, from the date of entry of the final order in such proceedings, including all appeals.

13. **Decision.** The decision of the Environmental Appeal Board shall be final administrative action. Any person who is a party to the proceeding may appeal to the Circuit Court of Palm Beach County in accordance with the Florida Rules of Appellate Procedure.

N. Violations, penalties, enforcement and inspections.

1. **Violations and penalties.** It is unlawful for any person to violate any provision of this section or any duly constituted order of the Palm Beach County Environmental Control Hearing Board enforcing this section. Such violations shall be subject to the enforcement and penalty provisions of Chapter 77-616, Special Acts, Laws of Florida, as amended, and Palm Beach County Environmental Control Ordinance No. 78-5, as amended.

2. **Inspections.** It shall be the duty of the County Health Director or his authorized representative to conduct such inspections as are reasonable and necessary to determine compliance with the provisions of this section.

[Ord. No. 95-24; July 11, 1995]

SEC. 16.3 PROHIBITION OF DUMPING, REGULATION OF WASTE DISPOSAL AND CLEAN FILL ACTIVITY

A. Purpose and Intent. The purpose and intent of this section is to protect the surficial aquifer and prevent sanitary nuisances and public health threats by prohibition of dumping, regulation of waste disposal and clean fill activity. The specific objectives of this section are to establish prohibition for dumping or placing of waste upon any land or water on private or public property and regulate the disposition of clean fill.

B. Applicability. The standards of this section shall apply to all activities involving disposal of waste and clean fill activities within the unincorporated or incorporated areas of Palm Beach County.

C. Exemptions. The following shall be exempted from the standards of this section:

1. All waste management activities which are approved by Department of Environmental Regulations, Solid Waste Authority, or the Palm Beach County Public Health Unit (PBCPHU).

2. Agricultural waste disposal, provided the agricultural wastes are generated and disposed of on site and the property is agriculturally zoned.

3. Soil and mulch brought on to a property and used for the purpose of improving soil/plant relations through improving retention of nutrients and water for plants in ground or above ground on that site.

4. Clean fill disposed on land located in Palm Beach County if the person obtains the property owner's consent and the property has provided the Palm Beach County Public Health Unit (PBCPHU) with required notification as set forth herein.

D. Prohibition for Dumping and Placing Waste. It is unlawful and shall constitute willful causing of pollution for any person to dump, or cause or allow to be dumped; or place, or cause or allow to be placed; or bury, or cause or allow to be buried; any waste upon any land, or any water located in Palm Beach County.

E. Regulation of Clean Fill Activities.

1. **Prohibitions of Clean Fill Activities.** It is unlawful for any person to engage in the following activities:
   a. Create or maintain a sanitary nuisance due to clean fill activities;
   b. Adversely affect drainage resulting from clean fill activities; or
   c. Store waste which results from clean fill activities for more than seven (7) days.

2. **Notification of Clean Fill Activities.**

   a. **Initial notification.** Forty-five (45) working days prior to the commencement of clean fill activities, the property owner shall provide the PBCPHU written initial notification. Initial notification shall include; property owner(s) name, mailing address, phone number, clean fill material to be utilized, amount of clean fill activity, a survey prepared by a Registered Land Surveyor, and a sketch indicating location of fill on property.

   b. **Exception.** Initial notification shall not be required for the following activities:

      (1) Clean fill activities at parcels that have received a Palm Beach County Engineering Department subdivision approval and have a Land Development Permit;
      (2) Clean fill activities necessitated by the Building Department permit standards for individual lot improvements which previously have not received a Land Development Permit. The intent is to allow the clean filling of individual unplatted or by-passed platted lots to meet current standards without deleteriously impacting the surrounding parcels;
      (3) Clean fill activities at sites that have received a dredge and fill permit; or
      (4) Clean fill activities conducted by any governmental agency.

   c. **Other permits required.** Notification to the PBCPHU does not relieve the property owner from the need to obtain any local, state, or federal permit nor does it relieve the property owner from abiding by all local, state or federal laws, as applicable.

F. Enforcement, Penalties, Circuit Court Proceedings. Failure to comply with the requirements of this Section shall constitute a violation of this Code.

1. **Enforcement.** The PBCPHU shall have available to it all enforcement remedies made available pursuant to Chapter 77-616, Laws of Florida, as amended, and County ordinances adopted pursuant thereto. Violations will be heard by the Environmental Control Hearing Board.

2. **Penalties.** Penalties that may be imposed include the following:

   a. A civil penalty of up to $500.00 per day for each violations; and
   b. Affirmative action such as a requirement that the violator perform roadside waste clean-up services or bear the cost of waste removal in lieu of such services.

3. **Circuit Court Proceedings.** Circuit Court proceedings may be instituted to abate and prosecute violations, or enforce orders. Such relief may include both temporary and permanent injunctions.

[Ord. No. 95-24]
[Ord. No. 95-24; July 11, 1995]

TABLE OF CONTENTS

ARTICLE 17
PARK AND RECREATION STANDARDS

Page

SEC. 17.1 GENERAL 1
A. Purpose and Intent 1
B. Applicability 1
C. Community and Neighborhood Park Recreation Standards 1
1. Countywide regional, beach or district parks and preservation conservation areas 1
2. Required recreational areas 1
3. Determination 2
4. Cash-out option 2
5. Other 2
6. Open space credit 2
7. Other credits 2
D. Phasing 2
1. Single phasing 3
2. Multiple phasing 3

SEC. 17.1 GENERAL.

A. **Purpose and Intent.** The purpose and intent of this section is to ensure the provision of parks, on-site recreation areas and facilities in proportion to the demand created by development. By requiring such facilities, it is the intent of this section to ensure the provision of functionally-adequate, aesthetically pleasing and safe parks and recreation areas. The specific objectives of this section are as follows:

1. Establish recreational standards for the development of land within unincorporated Palm Beach County;

2. Aid in the coordination of land development in Palm Beach County in accordance with orderly physical patterns;

3. Provide public and private parks and recreation areas in accordance with the objectives of the Recreation Open Space Element of the Comprehensive Plan; and

4. Ensure to the residents of residential development that necessary recreational improvements have been provided.

B. **Applicability.** The standards of this section shall apply to all development in unincorporated Palm Beach County, or existing development that is modified to the extent that it includes residential uses or site design features that were not specifically shown on the previously approved plans. All recreation areas established by this section shall be continuously maintained according to the standards of this section.

C. **Community and Neighborhood Park Recreation Standards.**

1. **Countywide regional, beach or district parks and preservation conservation areas.** Where a planned beach, regional, district park, or preservation/ conservation area is shown in the CIE of the Comprehensive Plan, and a development proposed in an application for development permit is located in whole or in part within the planned beach, regional, district park, or preservation/conservation area, such area shall be reserved for a period not to exceed two (2) years during which time Palm Beach County shall either acquire the land or release the reservation. The time period initiating the reservation shall commence with the filing of an application for development order.

2. **Required recreational areas.** In any proposed residential development, adequate provisions shall be made for recreation areas to accommodate the neighborhood and community park level recreational needs of the residents of the development. The recreation areas shall consist of a developed recreation area parcel and include recreational facilities of a type consistent with the needs of the residents. The recreation parcel shall be located so as to provide convenient pedestrian access for the residents of the development. The recreation area shall be reserved by the developer for the perpetual use of the residents of the development. The owner of the land or a property owner's association, and their successors in interest shall be responsible for the perpetual maintenance of the recreation area. In addition, the recreation area shall comply with the following standards. The recreation area shall be the equivalent of 2.5 acres of developed land per 1,000 people population, based on 2.4 people per unit. Development of recreational facilities shall be of a type suitable for general neighborhood or community park use. The dollar amount to be spent on recreational improvements per acre shall be no less than seventy-five (75) percent of the County's cost per acre for developing community park type facilities as indicated by the Community Park Impact Fee Schedule or current County cost per acre to develop community and neighborhood park

facilities. The recreational tract(s) location shall be determined at the time of final site plan/subdivision plan submission. In the event of a phased development each subsequent site plan shall show how minimum recreation requirements are being satisfied. The minimum dollar amount to be spent on recreation facilities shall be determined based on the Community Park Impact Fee Schedule in use at the time of the site plan submission. The requirements contained in this section may be waived if adequate guarantee is provided prior to platting that the dollar value of the recreation areas required of this section shall be provided.

3. **Determination.** At the option of the Parks and Recreation Department the developer may, in lieu of or in combination with Sec. C.2., contribute the dollar value of the total recreational area requirement of this section for the entire development at the time the first plat is submitted for recording. Land value shall be based on the community park impact fee value per acre in use at the time the first plat is submitted for recording, or on a County approved certified MSA appraisal of the average value of the land in the development at the time of first plat. All such funds collected shall be held in a non-lapsing Park and Recreation Trust Fund for the acquisition and improvement of community or neighborhood parks according to the provisions of Sec. C.4.

4. **Cash-out option.** Monies deposited by a developer pursuant to this section shall be expended within a reasonable period of time for the purpose of acquiring and developing land necessary to meet the need for neighborhood or community parks created by the development in order to provide a system of parks which will be available to and sufficiently benefit the residents of the development. In accordance with the descriptions of neighborhood and community parks contained in the Comprehensive Plan, monies deposited by a developer pursuant to this section shall be expended to acquire or develop land for neighborhood and community park purposes not farther than five (5) miles from the perimeter of the development.

5. **Other.** The Board of County Commissioners shall establish an effective program for the acquisition of lands for the development of community parks in order to meet, within a reasonable period of time, the existing need for community parks which will be created by further residential developments constructed after the effective date of this section. The annual budget and capital improvement program of Palm Beach County shall provide for appropriation of funds as may be necessary to carry out Palm Beach County's program for the acquisition of land for community parks. The funds necessary to acquire lands to meet the existing need for County parks must be provided from a source of revenue other than from the amount deposited in the Trust Fund.

6. **Open space credit.** Where developed recreational facilities are provided within lands required or credited for other open space purposes pursuant to this Code, (i.e., buffer areas, natural preserves, utility easements, rights of way, drainage or water management tracts), only credit for the cost of approved facilities may be applied towards the recreation area requirement of Sec. C.2, and only if the facilities are reserved for the use of the residents of the development.

7. **Other credits.** Where private membership clubs, golf courses, and other recreational related facilities exclusive of a property owners association are provided in conjunction with the development, credit of fifty (50) percent of the requirement of Sec. C.3 for recreation areas on a plat by plat basis for the entire development may be applied for those facilities which are available for the use of the residents of the development.

D. Phasing. Any development providing residential land use shall follow one of the following phasing plans:

1. **Single phasing**. When the development is to be constructed in a single phase, or where each phase will provide recreational facilities specifically for the residents of that phase, then the recreational site(s) for that phase shall be site planned, or platted, concurrent with that phase of construction. No more than forty (40) percent of the building permits for residential units shall be issued for the phase until the recreational improvements have been completed in their entirety.

2. **Multiple phasing**. When the development is to be constructed in multiple phases and one or more required recreational site(s) is/are intended to serve the residents of two (2) or more phases of the development, then the following sequence must be adhered to:

   a. The recreation site(s) shall be site planned concurrent with the site plan for the first phase of residential development for which the recreational site will serve.

   b. The recreation site(s) shall be platted concurrent with the plat for the residential development phase they will serve.

   c. No more than forty (40) percent of the building permits for residential units shall be issued for the phase until the recreational improvements have been completed in their entirety.

[Ord. No. 95-24; July 11, 1995]